



# IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

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January 18, 2006

NUMBER 15  
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## PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

**PLEASE NOTE:** *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1(249A)	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)“a”	(Paragraph)
441 IAC 79.1(1)“a”(1)	(Subparagraph)

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## PUBLICATION PROCEDURES

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The Administrative Rules Review Committee will hold a special meeting on Friday, February 10, 2006, at 8 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

**NOTE: See also Supplemental Agenda to be published in the February 1, 2006, Iowa Administrative Bulletin.**

#### **ACCOUNTANCY EXAMINING BOARD[193A]**

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**ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS**

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.  
**EDITOR'S NOTE: Terms ending April 30, 2007.**

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 Dubuque, Iowa 52001

Senator Thomas Courtney  
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 Burlington, Iowa 52601

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 Governor's Ex Officio Representative  
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AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
<b>BLIND, DEPARTMENT FOR THE[111]</b>		
Facility security; business enterprises program, 1.4, 1.13, 7.8(1), 7.10, 7.17 IAB 1/18/06 <b>ARC 4827B</b>	Director's Conference Rm., First Floor 524 Fourth St. Des Moines, Iowa	February 7, 2006 1 p.m.
<b>CIVIL RIGHTS COMMISSION[161]</b>		
Mailing documents to or from commission, 2.1(6), 3.4 to 3.6, 3.10, 3.12 to 3.14, 3.16, 9.5(4) IAB 1/4/06 <b>ARC 4790B</b>	First Floor Grimes State Office Bldg. Des Moines, Iowa	January 26, 2006 3 to 5 p.m.
<b>EDUCATIONAL EXAMINERS BOARD[282]</b>		
Removal of reference to a public letter of reprimand, 11.38, 11.39 IAB 1/18/06 <b>ARC 4812B</b>	Room 3 North, Third Floor Grimes State Office Bldg. Des Moines, Iowa	February 7, 2006 1 p.m.
<b>EDUCATION DEPARTMENT[281]</b>		
Extracurricular interscholastic competition, 36.1, 36.4, 36.14 to 36.16 IAB 12/7/05 <b>ARC 4731B (ICN Network)</b>	ICN Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	January 26, 2006 1 p.m.
	Keystone AEA 1 1400 Second St. NW Elkader, Iowa	January 26, 2006 1 p.m.
	Room 106, Charles City Center North Iowa Area Comm. College 200 Harwood Dr. Charles City, Iowa	January 26, 2006 1 p.m.
	Room 22, Library Bldg. Iowa Lakes Community College 300 S. 18th St. Estherville, Iowa	January 26, 2006 1 p.m.
	Room 13, Attendance Center. Iowa Lakes Community College 2111 Hwy. 169 North Algona, Iowa	January 26, 2006 1 p.m.
	Fiber Optic Rm. 118, Attendance Ctr. Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	January 26, 2006 1 p.m.
	Room 818, Smith Wellness Center Iowa Lakes Community College 3200 College Dr. Emmetsburg, Iowa	January 26, 2006 1 p.m.

**EDUCATION DEPARTMENT[281] (Cont'd)**  
**(ICN Network)**

Reg Johnson Hall 105 Ellsworth Community College 1100 College Ave. Iowa Falls, Iowa	January 26, 2006 1 p.m.
Room 806, Continuing Ed. Center Iowa Valley Community College 3702 S. Center St. Marshalltown, Iowa	January 26, 2006 1 p.m.
Room 110, Tama Hall Hawkeye Comm. College 1501 E. Orange Rd. Waterloo, Iowa	January 26, 2006 1 p.m.
Room N147, Lagomarcino Hall Iowa State University Ames, Iowa	January 26, 2006 1 p.m.
Room 105, Larson Hall Clinton Comm. College 1000 Lincoln Blvd. Clinton, Iowa	January 26, 2006 1 p.m.
Room 60, Muscatine Comm. College 152 Colorado St. Muscatine, Iowa	January 26, 2006 1 p.m.
Room 210, Scott Comm. College 500 Belmont Rd. Bettendorf, Iowa	January 26, 2006 1 p.m.
Room 116, Red Oak Center Southwestern Comm. College 2300 N. Fourth St. Red Oak, Iowa	January 26, 2006 1 p.m.
Room 2, Conference Center NE Iowa Comm. College 10250 Sundown Rd. Peosta, Iowa	January 26, 2006 1 p.m.
Room 128, Careers Bldg., NIACC 500 College Dr. Mason City, Iowa	January 26, 2006 1 p.m.
Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	January 26, 2006 1 p.m.
Room 100, Preus Bldg. Luther College 700 College Dr. Decorah, Iowa	January 26, 2006 1 p.m.
Lib. 204, Prairie Lakes AEA 8 330 Avenue M Fort Dodge, Iowa	January 26, 2006 1 p.m.

**EDUCATION DEPARTMENT[281] (Cont'd)**  
**(ICN Network)**

Turner Room, Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	January 26, 2006 1 p.m.
Southern Prairie AEA 15 2814 N. Court St. Ottumwa, Iowa	January 26, 2006 1 p.m.
Looft Hall, Iowa Western Comm. Coll. 2700 College Rd. Council Bluffs, Iowa	January 26, 2006 1 p.m.
Iowa City Comm. School Dist. 509 S. Dubuque St. Iowa City, Iowa	January 26, 2006 1 p.m.
Room CV15B, Indian Hills Comm. Coll. North First St. Centerville, Iowa	January 26, 2006 1 p.m.
Room 410, Bldg. D Northwest Iowa Community. College 603 West Park St. Sheldon, Iowa	January 26, 2006 1 p.m.
Iowa Lakes Community College 2008 Hill Ave. Spirit Lake, Iowa	January 26, 2006 1 p.m.
AG Room 331 Southeastern Community College 1500 W. Agency West Burlington, Iowa	January 26, 2006 1 p.m.
Room 7B, Information Tech. Center Buena Vista University 610 W. Fourth St. Storm Lake, Iowa	January 26, 2006 1 p.m.
AEA 267 3712 Cedar Heights Dr. Cedar Falls, Iowa	January 26, 2006 1 p.m.

**ELDER AFFAIRS DEPARTMENT[321]**

Case management programs for frail elders, ch 21 IAB 1/4/06 <b>ARC 4806B</b> (See also <b>ARC 4805B</b> ) <b>(ICN Network)</b>	Dept. of Public Safety Wallace State Office Bldg. Des Moines, Iowa	February 3, 2006 1 p.m.
	Iowa Western Community College 2700 College Rd. Council Bluffs, Iowa	February 3, 2006 1 p.m.
	Iowa City Community Schools 509 S. Dubuque St. Iowa City, Iowa	February 3, 2006 1 p.m.

**ELDER AFFAIRS DEPARTMENT[321] (Cont'd)**  
**(ICN Network)**

Bldg. 4, Indian Hills Comm. College 651 Indian Hills Dr. Ottumwa, Iowa	February 3, 2006 1 p.m.
High School 800 Third St. Spencer, Iowa	February 3, 2006 1 p.m.
Schindler 130A, Univ. of Northern Iowa Hudson Rd. and 23rd St. Cedar Falls, Iowa	February 3, 2006 1 p.m.

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

Incorporation of Clean Air Interstate Rule, 20.1, 21.1(4), 22.120; ch 34 IAB 1/18/06 <b>ARC 4823B</b>	Gritter Room, Iowa Hall Kirkwood Community College Cedar Rapids, Iowa	February 21, 2006 1 p.m.
	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	February 22, 2006 1 p.m.
Incorporation of Clean Air Mercury Rule, 22.3(5), 23.1, 25.1 to 25.3; adopt ch 34 IAB 1/18/06 <b>ARC 4824B</b>	Gritter Room, Iowa Hall Kirkwood Community College Cedar Rapids, Iowa	February 21, 2006 1 p.m.
	Conference Rooms, Air Quality Bureau 7900 Hickman Rd. Urbandale, Iowa	February 22, 2006 1 p.m.
Animal feeding operations— designated wetlands, 65.1 IAB 12/21/05 <b>ARC 4771B</b>	Public Library 702 16th St. Spirit Lake, Iowa	January 19, 2006 6:30 p.m.
	Lime Creek Nature Center 3501 Lime Creek Rd. Mason City, Iowa	January 25, 2006 6:30 p.m.
	Public Library 129 N. Court Ottumwa, Iowa	January 26, 2006 6 p.m.
	Fourth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 31, 2006 2:30 p.m.
Household hazardous materials, 144.3 IAB 1/18/06 <b>ARC 4825B</b>	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	February 8, 2006 11 a.m.

**INSURANCE DIVISION[191]**

Electronic delivery of accident and health group insurance certificates, 40.25 IAB 1/4/06 <b>ARC 4778B</b>	330 Maple St. Des Moines, Iowa	January 25, 2006 10 a.m.
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**LABOR SERVICES DIVISION[875]**

Federal OSHA regulations—adoption by reference, 10.20, 26.1 IAB 1/18/06 <b>ARC 4828B</b>	Capitol View Room 1000 E. Grand Ave. Des Moines, Iowa	February 10, 2006 9 a.m.
Elevator safety standards, 71.2(2), 72.1, 73.8, 76.4(1), 76.7 IAB 1/4/06 <b>ARC 4779B</b>	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	January 25, 2006 1:30 p.m. (If requested)

**NATURAL RESOURCE COMMISSION[571]**

Nighttime speed limit, Dickinson County; zoning of Mississippi River, Mud Lake, Dubuque County, 40.52, 40.53 IAB 1/4/06 <b>ARC 4794B</b>	City Hall 156 Hwy. 71 Arnolds Park, Iowa	January 26, 2006 7 p.m.
	Fifth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	January 24, 2006 11 a.m.

**PROFESSIONAL LICENSURE DIVISION[645]**

Marital and family therapists and mental health counselors, 31.12 IAB 1/4/06 <b>ARC 4781B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 8:30 to 9 a.m.
Marital and family therapists and mental health counselors, 33.5 IAB 1/4/06 <b>ARC 4783B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 8:30 to 9 a.m.
Dietitians—discipline, 83.5 IAB 1/4/06 <b>ARC 4777B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 10 to 10:30 a.m.
Mortuary science examiners, 100.7(2), 100.10, 103.7 IAB 1/4/06 <b>ARC 4789B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 9:30 to 10 a.m.
Massage therapists, 131.2(7) IAB 1/4/06 <b>ARC 4796B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 9 to 9:30 a.m.
Massage therapists, 131.6, 134.6 IAB 1/4/06 <b>ARC 4785B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 9 to 9:30 a.m.
Social workers, 280.3(12), 280.4(6), 280.7 IAB 1/4/06 <b>ARC 4786B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	January 24, 2006 10:30 to 11 a.m.
Athletic trainers, 353.5 IAB 1/18/06 <b>ARC 4810B</b>	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	February 7, 2006 8:30 to 9 a.m.

**PUBLIC SAFETY DEPARTMENT[661]**

Certification of automatic fire extinguishing system contractors, adopt ch 275 IAB 12/21/05 <b>ARC 4753B</b>	Fire Marshal Division Conference Rm. Suite N 401 SW Seventh St. Des Moines, Iowa	January 18, 2006 10 a.m.
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**TRANSPORTATION DEPARTMENT[761]**

Acquisition and relocation assistance manual—adoption by reference, 111.1 IAB 1/4/06 <b>ARC 4775B</b>	First Floor South Conference Room Administration Bldg. 800 Lincoln Way Ames, Iowa	January 26, 2006 10 a.m. (If requested)
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]  
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]  
   Agricultural Development Authority[25]  
   Soil Conservation Division[27]  
 ATTORNEY GENERAL[61]  
 AUDITOR OF STATE[81]  
 BEEF INDUSTRY COUNCIL, IOWA[101]  
 BLIND, DEPARTMENT FOR THE[111]  
 CAPITAL INVESTMENT BOARD, IOWA[123]  
 CITIZENS’ AIDE[141]  
 CIVIL RIGHTS COMMISSION[161]  
 COMMERCE DEPARTMENT[181]  
   Alcoholic Beverages Division[185]  
   Banking Division[187]  
   Credit Union Division[189]  
   Insurance Division[191]  
   Professional Licensing and Regulation Division[193]  
     Accountancy Examining Board[193A]  
     Architectural Examining Board[193B]  
     Engineering and Land Surveying Examining Board[193C]  
     Landscape Architectural Examining Board[193D]  
     Real Estate Commission[193E]  
     Real Estate Appraiser Examining Board[193F]  
   Savings and Loan Division[197]  
   Utilities Division[199]  
 CORRECTIONS DEPARTMENT[201]  
   Parole Board[205]  
 CULTURAL AFFAIRS DEPARTMENT[221]  
   Arts Division[222]  
   Historical Division[223]  
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]  
   City Development Board[263]  
   Grow Iowa Values Board[264]  
   Iowa Finance Authority[265]  
 EDUCATION DEPARTMENT[281]  
   Educational Examiners Board[282]  
   College Student Aid Commission[283]  
   Higher Education Loan Authority[284]  
   Iowa Advance Funding Authority[285]  
   Libraries and Information Services Division[286]  
   Public Broadcasting Division[288]  
   School Budget Review Committee[289]  
 EGG COUNCIL, IOWA[301]  
 ELDER AFFAIRS DEPARTMENT[321]  
 EMPOWERMENT BOARD, IOWA[349]  
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]  
 EXECUTIVE COUNCIL[361]  
 FAIR BOARD[371]  
 GENERAL SERVICES DEPARTMENT[401]  
 HUMAN INVESTMENT COUNCIL[417]  
 HUMAN RIGHTS DEPARTMENT[421]  
   Community Action Agencies Division[427]  
   Criminal and Juvenile Justice Planning Division[428]  
   Deaf Services Division[429]  
   Persons With Disabilities Division[431]  
   Latino Affairs Division[433]  
   Status of African-Americans, Division on the[434]  
   Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]  
INFORMATION TECHNOLOGY DEPARTMENT[471]  
INSPECTIONS AND APPEALS DEPARTMENT[481]  
    Employment Appeal Board[486]  
    Foster Care Review Board[489]  
    Racing and Gaming Commission[491]  
    State Public Defender[493]  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]  
LAW ENFORCEMENT ACADEMY[501]  
LIVESTOCK HEALTH ADVISORY COUNCIL[521]  
LOTTERY AUTHORITY, IOWA[531]  
MANAGEMENT DEPARTMENT[541]  
    Appeal Board, State[543]  
    City Finance Committee[545]  
    County Finance Committee[547]  
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]  
NATURAL RESOURCES DEPARTMENT[561]  
    Energy and Geological Resources Division[565]  
    Environmental Protection Commission[567]  
    Natural Resource Commission[571]  
    Preserves, State Advisory Board for[575]  
PERSONNEL DEPARTMENT[581]  
PETROLEUM UNDERGROUND STORAGE TANK FUND  
    BOARD, IOWA COMPREHENSIVE[591]  
PREVENTION OF DISABILITIES POLICY COUNCIL[597]  
PUBLIC DEFENSE DEPARTMENT[601]  
    Homeland Security and Emergency Management Division[605]  
    Military Division[611]  
PUBLIC EMPLOYMENT RELATIONS BOARD[621]  
PUBLIC HEALTH DEPARTMENT[641]  
    Substance Abuse Commission[643]  
    Professional Licensure Division[645]  
    Dental Examiners Board[650]  
    Medical Examiners Board[653]  
    Nursing Board[655]  
    Pharmacy Examiners Board[657]  
PUBLIC SAFETY DEPARTMENT[661]  
RECORDS COMMISSION[671]  
REGENTS BOARD[681]  
    Archaeologist[685]  
REVENUE DEPARTMENT[701]  
SECRETARY OF STATE[721]  
SEED CAPITAL CORPORATION, IOWA[727]  
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]  
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]  
TRANSPORTATION DEPARTMENT[761]  
    Railway Finance Authority[765]  
TREASURER OF STATE[781]  
TURKEY MARKETING COUNCIL, IOWA[787]  
UNIFORM STATE LAWS COMMISSION[791]  
VETERANS AFFAIRS COMMISSION[801]  
VETERINARY MEDICINE BOARD[811]  
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]  
VOTER REGISTRATION COMMISSION[821]  
WORKFORCE DEVELOPMENT DEPARTMENT[871]  
    Labor Services Division[875]  
    Workers' Compensation Division[876]  
    Workforce Development Board and  
    Workforce Development Center Administration Division[877]

**ARC 4813B**  
**ACCOUNTANCY EXAMINING  
BOARD[193A]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 542.4, the Accountancy Examining Board hereby gives Notice of Intended Action to amend Chapter 10, “Continuing Education,” Iowa Administrative Code.

The proposed amendment to rule 193A—10.5(542) adopts a mandatory requirement for continuing education in ethics and clarifies the way hours of credit are determined for courses that cover multiple topics.

This amendment is subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendment received on or before February 7, 2006. Comments should be addressed to Glenda Loving, Accountancy Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to [glenda.loving@iowa.gov](mailto:glenda.loving@iowa.gov).

This amendment is intended to implement Iowa Code chapters 542 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 193A—10.5(542) as follows:

**193A—10.5(542) Mandatory education required.**

**10.5(1)** In each biennial period in which compilation reports are issued, every CPA certificate holder or LPA license holder who is responsible for supervising compilation services or who signs or authorizes someone to sign the accountant’s compilation report on the financial statements on behalf of a firm shall complete, as a condition of certificate or license renewal, a minimum of seven hours of continuing education devoted to financial statement presentation, such as courses covering the statements on standards for accounting and review services (SSARS) and accounting and auditing updates. When required, the *SSARS financial statement presentation* continuing education shall be completed within the two-year period ending on the December 31 preceding the application for certificate or license renewal. *For credit to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.4(1) shall be devoted to financial statement presentation and credit shall be claimed as one contact hour of credit for each hour of participation devoted to each particular topic. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to financial statement presentation, then only one hour shall be claimed toward meeting the requirement of this subrule.*

**10.5(2)** Every CPA certificate holder or LPA license holder shall complete a minimum of four hours of continuing education devoted to ethics and rules of professional conduct

during the two-year period ending December 31, prior to the July 1 biennial renewal date. *For a course to qualify to meet this requirement, the course description shall clearly outline the subject matter covered as professional or business ethics. If credit is to be claimed for a course covering multiple topics, a minimum of one hour as outlined in subrule 10.4(1) shall be devoted to business or professional ethics and credit shall be claimed as one contact hour of credit for each hour of participation devoted to each particular topic. For example, if a seminar or presentation is conducted for a total of four hours and only one hour is devoted to business or professional ethics, then only one hour shall be claimed toward meeting the requirement of this subrule.* The first requirement shall be completed by December 31, 2007, for individuals whose renewal date is July 1, 2008, and December 31, 2008, for individuals whose renewal date is July 1, 2009.

**ARC 4827B**

**BLIND, DEPARTMENT  
FOR THE[111]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 216B.6, the Department for the Blind hereby gives Notice of Intended Action to amend Chapter 1, “Administrative Organization and Procedures,” and Chapter 7, “Business Enterprises Program,” Iowa Administrative Code.

The amendments incorporate changes to (1) prohibit a member of the public from carrying dangerous weapons in Department facilities whether or not the individual possesses a permit to carry a weapon, (2) prohibit smoking in Department facilities, (3) eliminate contested case hearings as a precondition for disciplinary action involving a blind food service licensee, and (4) provide for the denial of a food service license or the revocation of an existing food service license in the event the licensee is disqualified by the licensee’s obtaining a valid license to drive a motor vehicle or by driving illegally. The Department of Administrative Services previously adopted similar rules concerning smoking, building access and security on the capitol complex, and dangerous weapons as pertaining to buildings and grounds on the capitol complex.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 7, 2006. Such written comments should be directed to the Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309-2364; or sent by electronic mail to [Snetthen.Bruce@blind.state.ia.us](mailto:Snetthen.Bruce@blind.state.ia.us); or by facsimile to (515)281-1263.

There will be a public hearing on February 7, 2006, at 1 p.m. in the Director’s Conference Room, First Floor, Department for the Blind, 524 Fourth Street, Des Moines, Iowa 50309-2364, at which time persons may present their views either orally or in writing.

At the public hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

BLIND, DEPARTMENT FOR THE[111](cont'd)

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Department for the Blind and advise of specific needs.

These amendments are intended to implement Iowa Code chapter 142B, Executive Order Number 68 signed November 23, 1998, by Governor Terry E. Branstad, and Iowa Code section 216B.3, subsection 6.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **111—1.4(216B)** by adding the following **new** definitions in alphabetical order:

“Dangerous weapon” means any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the person possessing the instrument or device intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon as defined in Iowa Code section 724.1, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, or knife having a blade exceeding five inches in length.

“Facilities” means the premises at 524 Fourth Street, Des Moines, Iowa, and any other space occupied by the department for the blind.

“Public” means a person who is not employed by the state of Iowa.

ITEM 2. Amend 111—Chapter 1 by adopting the following **new** rule:

**111—1.13(216B) Department facility operations.**

**1.13(1) Dangerous weapons.** No member of the public shall carry a dangerous weapon in department facilities. This provision applies to any member of the public whether or not the individual possesses a valid Iowa permit to carry weapons. This provision does not apply to:

a. A peace officer as defined in Iowa Code section 801.4 or a member of the armed forces of the United States or of the national guard, when the person's duties or lawful activities require or permit possession of a dangerous weapon.

b. A person possessing a valid Iowa professional permit to carry a weapon whose duties require that person to carry a dangerous weapon.

c. A person who possesses a dangerous weapon for any purpose authorized by a state agency to further the statutory or regulatory responsibilities of that agency. An authorization issued pursuant to this paragraph shall not become effective until it has been issued in writing to the person or persons to whom it applies and until copies of the authorization have been received by the director and by the commissioner of public safety.

d. Members of recognized military veterans organizations performing honor guard service as provided in Iowa Code section 35A.12.

Violation of this subrule is a simple misdemeanor, pursuant to Iowa Code section 8A.322, and may result in the denial of access to a state building, filing of criminal charges or expulsion from the grounds of the department's facilities, or

any combination thereof, of any individual who knowingly violates the subrule. In addition, any weapon found in the possession of a member of the public in violation of this subrule may be confiscated. Charges may be filed under any other criminal statute if appropriate. Officers employed by or under the supervision of the department of public safety shall have the authority to enforce this subrule. Peace officers employed by other agencies shall have the authority to enforce this subrule at the request of the commissioner of public safety or in response to a request for assistance from an officer employed by the department of public safety or at the request of the director or the director's designee.

**1.13(2) Building access and security.** The department shall take reasonable and appropriate measures to ensure the safety of persons and property in department facilities. These measures may include, but are not limited to, the following:

a. Requiring any member of the public entering department facilities to (1) provide identification upon request; (2) allow the member of the public to be scanned with metal detecting equipment; and (3) allow any parcel, package, luggage, purse, or briefcase that the person is bringing into department facilities to be examined with X-ray equipment or to have the contents thereof examined, or both.

b. Requiring any member of the public who is inside department facilities outside normal business hours, other than when facilities are open to the public during a scheduled event, to provide identification and to state the nature of the person's business in the facility. A member of the public who is in department facilities outside normal business hours, other than during a scheduled event, and who does not have authorization to be on the premises may be required to exit the building and be escorted from the building.

c. Limiting public access to department facilities to selected entrances. Access to each building through at least one entrance accessible to persons with disabilities shall be maintained.

d. Limiting hours during which public access to department facilities is allowed.

e. Confiscating any container including, but not limited to, packages, bags, briefcases, or boxes that are left in public areas when department facilities are not open to the public. Any confiscated container may be searched or destroyed, or both, or may be returned to the owner. Any container that is left unattended in a public area during hours in which department facilities are open to the public may be examined.

Violation of this subrule is a simple misdemeanor, pursuant to Iowa Code section 8A.322, and may result in the denial of access to a state building, filing of criminal charges or expulsion from department facilities, or any combination thereof, of the individual who knowingly violates the subrule. Charges may be filed under any other criminal statute if appropriate. Officers employed by or under the supervision of the department of public safety shall have the authority to enforce this subrule. Peace officers employed by other agencies shall also have the authority to enforce this subrule.

**1.13(3) Access barriers.** The director may cause the temporary or permanent placement of barricades, ropes, signs, or other barriers to limit access to certain parts of department facilities. Unauthorized persons beyond the barriers may be removed with the assistance of law enforcement officers or charged with a criminal offense if appropriate, or both.

**1.13(4) Smoking.** Use of tobacco products is prohibited in all department facilities, unless otherwise designated by appropriate signs.

BLIND, DEPARTMENT FOR THE[111](cont'd)

ITEM 3. Amend subrule 7.8(1) as follows:

**7.8(1)** The requirements for obtaining a license are:

- a. The applicant must be blind according to the definition in 111—7.2(216D);
- b. The applicant must be a citizen of the United States;
- c. The applicant must be a resident of the state;
- d. The applicant must demonstrate competency which is measured by the ability to operate a vending facility by either successful completion of the training program (if a trainee) or by successful completion of a program competency test with a minimum score of 70 percent (if applying for licensure by reinstatement or reciprocity); *and*
- e. *The applicant must possess a current and valid Iowa department of transportation nondriver identification card.*

ITEM 4. Adopt **new** subrules 7.10(5) to 7.10(13) as follows:

**7.10(5)** A licensee requesting facility priority for assignment through transfer or promotion must first receive a formal recommendation for such from the committee. The request for recommendation from the committee must be submitted in writing within 30 days of facility closure, and the licensee shall appear in person to ask for the recommendation. Priority shall only be considered when the facility is closed through no fault of the licensee.

**7.10(6)** After the recommendation has been received, it will be forwarded to the director, Iowa department for the blind, for written approval or denial within 30 calendar days.

**7.10(7)** If the licensee receives committee and department approval for priority, the program administrator, business enterprises program, shall issue a formal written statement within 30 calendar days to the licensee, advising the licensee of priority status for transfer or promotion.

**7.10(8)** If a licensee is not recommended for priority status, the program administrator shall issue a formal written notice to the licensee within 30 calendar days, indicating why priority status was not granted.

**7.10(9)** In order for a licensee to qualify for priority status, the following criteria must be met: an average score of 90 or above for the past five years on inspection reports and bid evaluation scores, and an average of “meets standards” on performance evaluations.

**7.10(10)** Priority shall only be issued for facilities of comparable type and size to the facility formerly operated by the licensee. Facility types are cafeteria or vending. Comparable size shall be determined by approximately 25 percent of the gross sales at the vacant facility over and above the gross sales of the facility formerly operated by the licensee where priority is requested.

**7.10(11)** Priority status shall be limited to a two-year period, which shall commence at date of issuance. If a licensee is offered an equivalent facility during that period and does not accept assignment, priority status shall be terminated in writing, unless the committee and department determine that there are extenuating circumstances where the licensee cannot accept assignment.

**7.10(12)** If no equivalent facility becomes available during the two-year priority period, the licensee may apply in writing to the committee and department for a one-year extension. If, at the end of the additional year, no equivalent facility is available, the licensee may apply in writing for a second and final one-year extension through the committee and department. The initial two years, plus the two extensions, must be consecutive. All granted extensions shall be in writing from the program administrator, business enterprises program.

**7.10(13)** Actions pursuant to rule 7.10(216D) are subject to appeal procedures of this chapter and the procedures in 111—Chapter 8.

ITEM 5. Amend rule 111—7.17(216D) as follows:

Amend the introductory paragraph as follows:

**111—7.17(216D) Disciplinary action.** ~~Following the opportunity for a contested case hearing except in the case of an emergency, and in consultation with the state committee of blind vendors, the~~ *The* department may impose any or all of the following disciplinary sanctions as appropriate:

Amend subrule 7.17(4) as follows:

**7.17(4)** License revocation. The department may revoke a license in the following conditions:

- a. Improvement of vision so that the operator is no longer eligible for participation in the business enterprises program;
- b. Written notification from the vendor requesting withdrawal from the business enterprises program;
- c. Failure to execute an operating agreement by abandoning a facility;
- d. Determination that the vendor is not competent to manage a vending facility; ~~or~~
- e. Conviction of any felony; *or*
- f. *Determination that the vendor possesses a valid driver's license or is driving illegally without a valid driver's license.*

**ARC 4812B**

## EDUCATIONAL EXAMINERS BOARD[282]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby gives Notice of Intended Action to amend Chapter 11, “Complaints, Investigations, Contested Case Hearings,” Iowa Administrative Code.

The proposed amendment establishes a process by which a licensee who has received a Letter of Reprimand from the Board could petition for removal of the Letter from the information routinely posted on the Board’s Web site.

A waiver provision is not included. The Board has adopted a uniform waiver rule.

Any interested party or persons may present their views either orally or in writing at the public hearing that will be held Tuesday, February 7, 2006, at 1 p.m. in Room 3 North, Third Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa.

At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment. Persons who wish to make oral presentations at the public hearing may contact the Executive Director, Board of Educational Examiners, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0147, or at (515)281-5849, prior to the date of the public hearing.

## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

Any person who intends to attend the public hearing and requires special accommodations for specific needs, such as a sign language interpreter, should contact the office of the Executive Director at (515)281-5849.

Any interested person may make written comments or suggestions on the proposed amendment before 4 p.m. on Friday, February 10, 2006. Written comments and suggestions should be addressed to Barbara F. Hendrickson, Board Secretary, Board of Educational Examiners, at the above address, or sent by E-mail to [barbara.hendrickson@iowa.gov](mailto:barbara.hendrickson@iowa.gov), or by fax to (515)281-7669.

This amendment is intended to implement Iowa Code chapter 272.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend 282—Chapter 11 by adding the following **new** rules:

**282—11.38(272) Public notice of disciplinary sanctions.** The board routinely maintains a public information access system to provide all interested persons with information about the status of individual practitioner licenses. When the board issues an order in a disciplinary case revoking or suspending a practitioner's license, certificate, or authorization, calling for the issuance of a letter of reprimand, or imposing an alternative sanction as allowed by rule 11.33(272), reference to the sanction will be included in the information provided through the public access system.

**282—11.39(272) Removal of reference to a public letter of reprimand.** A respondent who has received a letter of reprimand from the board may apply to have reference to the sanction removed from the public information access system maintained by the board no sooner than five years after the date of issuance of the board order calling for the issuance of the reprimand.

**11.39(1)** The request shall be initiated by the respondent, who shall file with the executive director an application to have reference to the reprimand removed from the public information access system maintained by the board. Such application shall be docketed in the original case in which the sanction was issued.

**11.39(2)** The application shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for issuance of the reprimand no longer exists and that it will be in the public interest to remove reference to the reprimand from the public information access system. The burden of proof to establish such facts shall be on the respondent.

**11.39(3)** The executive director shall make a recommendation for board action on the application based upon review of the application and all information contained in the disciplinary case file. In formulating the recommendation, the executive director shall consider whether further disciplinary action has been taken against the applicant since issuance of the reprimand, whether the applicant's current employer supports the application, current board rules related to the type of misconduct which led to issuance of the letter of reprimand, and other factors the executive director deems appropriate.

**11.39(4)** The application will be granted or denied by order of the board upon consideration of the executive director's recommendation.

**ARC 4823B****ENVIRONMENTAL PROTECTION  
COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 20, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 21, “Compliance,” and Chapter 22, “Controlling Pollution,” and to adopt new Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” Iowa Administrative Code.

The purpose of the proposed amendments is to adopt the recently finalized federal Clean Air Interstate Rule (CAIR) into the state air quality rules. The proposed amendments will also make necessary updates and changes to existing air quality rules to implement CAIR.

On May 12, 2005, the U.S. Environmental Protection Agency (EPA) promulgated CAIR to address interstate transport of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxide (NO<sub>x</sub>) emissions from eastern and midwestern states, including Iowa, which were found to contribute to unhealthy levels of fine particles and ozone in downwind states. Fine particles and ozone are associated with thousands of premature deaths and illnesses each year. Additionally, these pollutants reduce visibility and damage sensitive ecosystems.

Iowa is currently in attainment for all national ambient air quality standards (NAAQS). Iowa is included in the CAIR provisions because EPA found that Iowa's emissions contribute to downwind nonattainment of air quality standards. As such, Iowa is required to meet EPA-prescribed emission targets for SO<sub>2</sub> and NO<sub>x</sub> in two phases. The first phase begins in 2009. The second phase begins in 2015.

EPA determined that controlling NO<sub>x</sub> and SO<sub>2</sub> emissions from fossil fuel-fired electric generating units (EGUs) to meet CAIR reduction goals was highly cost-effective. EPA provided two options for affected states to adopt CAIR: (1) adopt EPA regulations that require EGUs to participate in an EPA-administered interstate cap and trade program, or (2) mandate emissions controls and cap emissions from one or more industry sectors.

In May 2005, the Department convened a workgroup to assist with rule-making activities related to the adoption of CAIR. The workgroup's goal was to provide rule-making recommendations on the implementation options of the federal regulations. The Department invited the following parties to participate in the workgroup:

- Investor-owned, municipal and rural electric cooperative utilities;
- Iowa Association of Municipal Utilities and Iowa Utilities Association;
- Iowa Utilities Board and Consumer Advocate Office;
- Iowa's university power plants;
- Sierra Club and Iowa Environmental Council;
- Iowa Association of Business and Industry;
- Iowa Department of Economic Development;
- U.S. EPA Region VII; and
- DNR's Air Quality and Energy Bureaus.

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

The workgroup met five times between May and August 2005. All workgroup invitees, even those that elected not to participate in meetings, remained on the Department's E-mail distribution list and were kept informed of the workgroup's activities and meeting dates.

The majority of the workgroup members recommended that the Department adopt EPA's cap and trade program for regulating NO<sub>x</sub> and SO<sub>2</sub> emissions from EGUs. The Iowa Sierra Club did not endorse the cap and trade recommendation, stating that it does not support a cap and trade approach to emissions reductions.

Under the cap and trade approach for CAIR, EPA allocates emissions allowance budgets to the state for NO<sub>x</sub> emissions. CAIR SO<sub>2</sub> allowances are allocated by EPA to affected EGUs from the current allowances under the existing acid rain program. The state is responsible for allocating the NO<sub>x</sub> allowances to CAIR-affected facilities. Each allowance is equal to one ton of emissions. Upon allocation of NO<sub>x</sub> and SO<sub>2</sub> allowances, EGUs can then trade them through an EPA-managed trading program. Market forces determine the trade currency (allowance) values. At the end of each year, each affected EGU must hold one allowance for each ton of SO<sub>2</sub> or NO<sub>x</sub> emitted.

Adopting the cap and trade approach to CAIR offers several advantages. The affected facilities (EGUs) are allowed the flexibility to determine the most appropriate method of compliance by securing allowances, reducing emissions, or instituting some combination of these approaches. The affected EGUs must still comply with CAIR's requirements for continuous emissions monitoring for NO<sub>x</sub> and SO<sub>2</sub>.

The EPA-managed trading program also establishes automatic and punitive penalties on facilities that do not hold the required number of allowances at the end of each year. Further, states that adopt EPA's cap and trade program to implement CAIR are afforded "automatic approval" of the required revisions to their state implementation plans (SIPs). Iowa has until September 2006 to adopt CAIR and submit the revisions for incorporation into Iowa's SIP.

After carefully reviewing the CAIR provisions and considering the recommendations from all workgroup members, the Department is proposing to adopt EPA's cap and trade program for implementing CAIR. This approach is the appropriate method for meeting the federal requirements for reducing cumulative, regional emissions of NO<sub>x</sub> and SO<sub>2</sub> and will meet EPA's goals for reducing interstate transport of these pollutants.

These proposed amendments to implement CAIR will amend a number of the air quality rules. The federal CAIR regulations established some new requirements for emissions inventories, which the Department is proposing to adopt in Chapter 21. The federal CAIR regulations also amended several of the acid rain program definitions. The Department is proposing to amend the state acid rain rules in Chapter 22 to adopt the federal definitions by reference, while retaining the definitions specific to Iowa's acid rain program.

Additionally, the Department is proposing a new Chapter 34 that will contain the emissions trading provisions for CAIR. It is expected that EPA will promulgate other regulations in the future that will use the cap and trade approach similar to that of CAIR for reducing air pollutant emissions. The creation of Chapter 34 for air emissions trading will facilitate having all of these similar provisions in one location in the Iowa Administrative Code.

The Department is simultaneously proposing a separate, similar rule making to implement the Clean Air Mercury

Rule (CAMR) (see **ARC 4824B** herein). CAIR and CAMR are closely related because both allow primary implementation through an EPA-administered emissions cap and trade program. However, the Department plans to keep the CAIR and CAMR proposals separate in the event one of the rule makings is delayed or terminated.

Item 1 amends rule 567—20.1(455B,17A) to add information about the content of Chapters 31, 32 and 34.

Item 2 adopts new subrule 21.1(4) to add the requirement for emissions sources to submit emissions inventories related to emissions of SO<sub>2</sub> and NO<sub>x</sub> upon the Director's written request. This change is being made to implement the emissions inventory provisions of CAIR, which require the Department to compile and maintain an emissions inventory of these pollutants. The new subrule is similar to the existing emissions inventory requirements under 567—21.3(455B). Because the information required for CAIR is program-specific, and is more comprehensive than previous federal emissions inventory requirements, the Department proposes a distinct subrule for these requirements.

Item 3 rescinds rule 567—22.120(455B), the listing of definitions for the acid rain program, and adopts the federal definitions by reference, while retaining the definitions specific to Iowa's acid rain program. This change is being made to accommodate the amendments that EPA made to the federal acid rain program definitions in 40 CFR Parts 72 and 76 to implement CAIR. In adopting the federal definitions by reference, the Department will not need to continually update the text in the state's rules when EPA makes changes to the federal regulations. The listed definitions in the proposed rule are specific to Iowa's acid rain program or serve to further simplify updating the acid rain program rules. In particular, the Department is proposing acid rain program definitions for 40 CFR Parts 72 through 78 that will cover all references to these federal regulations and the amendment dates.

Item 4 adopts a new 567—Chapter 34 to set forth the provisions for air quality emissions trading programs. The provisions in this proposed chapter include the NO<sub>x</sub> and SO<sub>2</sub> emissions cap and trade requirements for CAIR.

In general, the federal regulations for a NO<sub>x</sub> and SO<sub>2</sub> emissions cap and trade program are adopted by reference. The proposed rules do include several sections of the federal regulations that are not adopted by reference.

The provisions of proposed Chapter 34 include the total state trading budgets for Iowa for annual NO<sub>x</sub> allowances. The proposed rules include four tables showing the annual allowance allocations to each designated CAIR unit for annual NO<sub>x</sub> and ozone season NO<sub>x</sub>, for existing units and new units. The Department proposes to adopt the federal provisions for determining the allowance allocations. Upon annual allocation, the designated units may track, transfer, bank and record the allowances, as specified in the federal regulations adopted by reference. EPA will be the designated authority for implementing these components of the CAIR cap and trade program.

The Department proposes to adopt the federal provisions for classifying existing units and new units. However, the Department, upon recommendation from the workgroup members, proposes to allocate the annual allowances for all new units at the time that Chapter 34 is adopted. Under EPA's regulations, the states have full discretion and flexibility to decide the initial allowance allocations.

Any person may make written suggestions or comments on the proposed amendments on or before February 27, 2006. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to [christine.paulson@dnr.state.ia.us](mailto:christine.paulson@dnr.state.ia.us).

A public hearing will be held on Tuesday, February 21, 2006, at 1 p.m. in the Gritter Room of Iowa Hall at Kirkwood Community College in Cedar Rapids, Iowa. A second public hearing will be held on Wednesday, February 22, 2006, at 1 p.m. in the conference rooms at the Department's Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at either of these public hearings. All comments must be received no later than February 27, 2006.

Any person who intends to attend a public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515)242-5154 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 455B.133.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **567—20.1(455B,17A)**, second unnumbered paragraph, as follows:

Chapter 21 contains the provisions requiring compliance schedules, allowing for variances, and setting forth the emission reduction program. Chapter 22 contains the standards and procedures for the permitting of emission sources and the special requirements for nonattainment areas. Chapter 23 contains the air emission standards for contaminants. Chapter 24 provides for the reporting of excess emissions and the equipment maintenance and repair requirements. Chapter 25 contains the testing and sampling requirements for new and existing sources. Chapter 26 identifies air pollution emergency episodes and the preplanned abatement strategies. Chapter 27 sets forth the conditions political subdivisions must meet in order to secure acceptance of a local air pollution control program. Chapter 28 identifies the state ambient air quality standards. Chapter 29 sets forth the qualifications for an observer for reading visible emissions. *Chapter 31 contains the conformity of general federal actions to the Iowa state implementation plan or federal implementation plan. Chapter 32 specifies requirements for conducting the animal feeding operations field study. Chapter 34 contains provisions for air quality emissions trading programs.*

ITEM 2. Adopt **new** subrule 21.1(4) as follows:

**21.1(4)** Emissions inventory to fulfill requirements of the Clean Air Interstate Rule (CAIR). Upon the director's written request, the owner or operator shall provide information on fuel use, materials processed, air contaminants emitted, estimated rate of emissions, periods of emission or other air pollutant information related to the emissions of SO<sub>2</sub> and NO<sub>x</sub>. The information requested shall be submitted on forms supplied by the department. The information shall be used by the department in compiling and maintaining an emissions inventory to fulfill the reporting requirements under 40 CFR 51.125 as amended through May 12, 2005.

ITEM 3. Rescind rule 567—22.120(455B) and adopt the following **new** rule in lieu thereof:

**567—22.120(455B) Acid rain program—definitions.** The terms used in rules 22.120(455B) through 22.147(455B) shall have the meanings set forth in Title IV of the Clean Air Act, 42 U.S.C. 7401, et seq., as amended through November 15, 1990, and in this rule. The definitions set forth in 40 CFR Part 72 as amended through May 18, 2005, and 40 CFR Part 76 as amended through May 12, 2005, are adopted by reference.

"40 CFR Part 72," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 72, or the cited provision therein, as amended through May 18, 2005.

"40 CFR Part 73," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 73, or the cited provision therein, as amended through May 12, 2005.

"40 CFR Part 74," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 74, or the cited provision therein, as amended through May 12, 2005.

"40 CFR Part 75," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 75, or the cited provision therein, as amended through May 18, 2005.

"40 CFR Part 76," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 76, or the cited provision therein, as amended through May 12, 2005.

"40 CFR Part 77," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 77, or the cited provision therein, as amended through May 12, 2005.

"40 CFR Part 78," or any cited provision therein, shall mean 40 Code of Federal Regulations Part 78, or the cited provision therein, as amended through May 12, 2005.

"Acid rain permit" means the legally binding written document, or portion of such document, issued by the department (following an opportunity for appeal as set forth in 561—Chapter 7, as adopted by reference at 567—Chapter 7), including any permit revisions, specifying the acid rain program requirements applicable to an affected source, to each affected unit at an affected source, and to the owner and operators and the designated representative of the affected source or the affected unit.

"Department" means the department of natural resources and is the state acid rain permitting authority.

"Draft acid rain permit" means the version of the acid rain permit, or the acid rain portion of a Title V operating permit, that the department offers for public comment.

"Permit revision" means a permit modification, fast-track modification, administrative permit amendment, or automatic permit amendment, as provided in rules 22.140(455B) through 22.144(455B).

"Proposed acid rain permit" means the version of the acid rain permit that the department submits to the Administrator after the public comment period, but prior to completion of the EPA permit review under 40 CFR 70.8(c) as amended through July 21, 1992.

"Title V operating permit" means a permit issued under rules 22.100(455B) through 22.116(455B) implementing Title V of the Act.

"Ton" or "tonnage" means any short ton (i.e., 2,000 pounds). For purposes of determining compliance with the acid rain emissions limitations and reduction requirements, total tons for a year shall be calculated as the sum of all recorded hourly emissions (or the tonnage equivalent of the recorded hourly emissions) in accordance with rule 567—25.2(455B), with any remaining fraction of a ton less than 0.50 ton deemed not equal to a ton.

ITEM 4. Adopt **new** 567—Chapter 34 as follows:

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

CHAPTER 34  
PROVISIONS FOR AIR QUALITY  
EMISSIONS TRADING PROGRAMS

**567—34.1(455B) Purpose.** This chapter implements the provisions for certain federal air emissions trading programs to control emissions of specific pollutants.

**567—34.2 to 34.199** Reserved.

**567—34.200(455B) Provisions for air emissions trading and other requirements for the Clean Air Interstate Rule (CAIR).** The CAIR regulations contained in 40 CFR Part 96 as amended through May 12, 2005, are adopted as indicated in rules 567—34.200(455B) through 567—34.229(455B). Additional provisions for CAIR are set forth in 567—subrule 21.1(4), emissions inventory requirements, and in rules 567—22.120(455B) through 567—22.123(455B), acid rain program requirements.

**567—34.201(455B) CAIR NO<sub>x</sub> annual trading program general provisions.** The provisions in 40 CFR Part 96, Subpart AA (96.101 through 96.108), as amended through May 12, 2005, are adopted by reference, except that the definition of “permitting authority” in 96.102 shall mean the department of natural resources. Other terms contained in rules 567—34.200(455B) through 567—34.209(455B), and in Tables 1A and 1B, shall have the meanings set forth in 96.102.

**567—34.202(455B) CAIR designated representative for CAIR NO<sub>x</sub> sources.** The provisions in 40 CFR Part 96, Subpart BB, as amended through May 12, 2005, are adopted by reference.

**567—34.203(455B) Permits.** The provisions in 40 CFR Part 96, Subpart CC, as amended through May 12, 2005, are adopted by reference.

**567—34.204** Reserved.

**567—34.205(455B) CAIR NO<sub>x</sub> allowance allocations.** The provisions in 40 CFR Part 96, Subpart EE (96.140 through 96.143), as amended through May 12, 2005, are adopted by reference, except as indicated in this rule.

**34.205(1) State trading budget.** The provisions in 40 CFR 96.140 are not adopted by reference. The state’s trading budget for annual allocations of CAIR NO<sub>x</sub> allowances for each control period from 2009 through 2014 is 32,692 tons. The state’s trading budget for annual allocations of CAIR NO<sub>x</sub> allowances for each control period, starting in 2015, and for each control period thereafter, is 27,243 tons.

**34.205(2) CAIR NO<sub>x</sub> allowance allocations.** The provisions in 40 CFR 96.142 are adopted by reference, except for the second sentence in 96.142(c)(1), 96.142(c)(2) through (4) and 96.142(d). The second sentence in 96.142(c)(1) shall instead state that each new unit set-aside will be allocated CAIR NO<sub>x</sub> allowances equal to 5 percent for a control period in 2009 through 2014, and 3 percent for a control period in 2015 and thereafter, of the amount of tons of NO<sub>x</sub> emissions in the state trading budget as specified in subrule 34.205(1). The CAIR NO<sub>x</sub> allowances allocated to each designated CAIR NO<sub>x</sub> unit for each control period, including allocations for new units without a baseline heat input (as specified in 96.142(c)(1)), are set forth in Tables 1A and 1B. The allocations set forth in Tables 1A and 1B are the allocations initially provided by the department for each control period. Upon this initial allocation, allowances may be tracked, transferred, banked and recorded as specified under 40 CFR 96.150 through 96.162 as amended through May 12, 2005. As is necessary, the department may adopt final rules to adjust the initial CAIR NO<sub>x</sub> unit allocation for new units for the control period in 2015, and for each control period thereafter.

**Table 1A. Annual NO<sub>x</sub> Allocations for Existing Units in Tons Per Year**

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	7	100	85
Ames	Story	8	351	299
Burlington Generating Station	Des Moines	1	1151	979
Cedar Falls Gas Turbine	Black Hawk	1	0	0
Cedar Falls Gas Turbine	Black Hawk	2	0	0
Council Bluffs Energy Center	Pottawattamie	1	307	261
Council Bluffs Energy Center	Pottawattamie	2	461	392
Council Bluffs Energy Center	Pottawattamie	3	4138	3521
Dubuque Generation Station	Dubuque	1	211	179
Dubuque Generation Station	Dubuque	5	145	123
Dubuque Generation Station	Dubuque	6	21	18
Earl F Wisdom Generation Station	Clay	1	75	64
Electrifarm Turbines	Black Hawk	GT1	7	6
Electrifarm Turbines	Black Hawk	GT2	8	7
Electrifarm Turbines	Black Hawk	GT3	8	7
Fair Station	Muscatine	2	205	174
George Neal North	Woodbury	1	765	651
George Neal North	Woodbury	2	1426	1213
George Neal North	Woodbury	3	2690	2289
George Neal South	Woodbury	4	3530	3004
Lansing Generating Station	Allamakee	1	5	5
Lansing Generating Station	Allamakee	2	13	11

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Lansing Generating Station	Allamakee	3	161	137
Lansing Generating Station	Allamakee	4	1165	991
Lime Creek Combustion Turbines Station	Cerro Gordo	**1	3	2
Lime Creek Combustion Turbines Station	Cerro Gordo	**2	2	2
Louisa Station	Muscatine	101	3945	3357
Marshalltown	Marshall	**1	4	4
Marshalltown	Marshall	**2	7	6
Marshalltown	Marshall	**3	5	5
Milton L Kapp Generating Station	Clinton	2	1089	926
Muscatine	Muscatine	8	488	415
Muscatine	Muscatine	9	959	816
North Centerville Combustion Turbines	Appanoose	**1	1	1
North Centerville Combustion Turbines	Appanoose	**2	1	1
Ottumwa Generating Station	Wapello	1	4168	3547
Pella Station	Marion	6	69	59
Pella Station	Marion	7	71	60
Pella Station	Marion	8	0	0
Pleasant Hill	Polk	GT1	1	1
Pleasant Hill	Polk	GT2	1	1
Pleasant Hill	Polk	GT3	5	4
Prairie Creek Generating Station	Linn	3	317	270
Prairie Creek Generating Station	Linn	4	771	656
Riverside Station	Scott	9	591	502
Sixth Street Generating Station	Linn	2	118	100
Sixth Street Generating Station	Linn	3	124	106
Sixth Street Generating Station	Linn	4	93	79
Sixth Street Generating Station	Linn	5	198	169
Streeter Station	Black Hawk	7	105	89
Summit Lake Facility	Union	1G	5	4
Summit Lake Facility	Union	2G	6	5
Sutherland Generating Station	Marshall	1	211	180
Sutherland Generating Station	Marshall	2	213	181
Sutherland Generating Station	Marshall	3	529	450
Sycamore Turbines	Polk	GT1	6	5
Sycamore Turbines	Polk	GT2	8	7

\*\*Denotes an affected unit for which the unit ID is unavailable.

**Table 1B. Annual NO<sub>x</sub> Allocations for New Units in Tons Per Year**

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	GT2	52	26
Council Bluffs Energy Center	Pottawattamie	4	713	356
Earl F Wisdom Generation Station	Clay	2	73	36
Emery Station	Cerro Gordo	11	130	65
Emery Station	Cerro Gordo	12	130	65
Emery Station	Cerro Gordo	13	187	93
Exira Station	Audubon	CT U-1	38	19
Exira Station	Audubon	CT U-2	38	19
Greater Des Moines Energy Center	Polk	GT1	137	69
Greater Des Moines Energy Center	Polk	GT2	137	69

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

**34.205(3)** Compliance supplement pool. In addition to the CAIR NO<sub>x</sub> trading budget specified in subrule 34.205(1), and the allocations specified in subrule 34.205(2), the department may allocate to CAIR NO<sub>x</sub> units for the control period in 2009 up to 6,978 CAIR NO<sub>x</sub> allowances from the state's compliance supplement pool. The allocation criteria set forth in 40 CFR 96.143 specifying requirements for affected units to request such allowances and for the department to allocate such allowances are adopted by reference.

a. Public notice and public participation. The department shall provide public notice and an opportunity for public comments, including an opportunity for a hearing, before allocating allowances from the compliance supplement pool.

b. Public notice requirements. For purposes of this rule, the department shall give notice in a format designed to give general public notice including, but not limited to, electronic mail listserver, the department's official Web site, or a press release. The public notice shall include the following:

- (1) Identification of the source requesting the allowances.
- (2) Name and address of the requester.
- (3) The number of allowances requested.
- (4) The reason for the request.
- (5) The time and place of any possible public hearing.
- (6) A statement that any person may submit written comments or may request a public hearing, or both, on the proposed allowance allocation.
- (7) A statement of the procedures to request a public hearing.
- (8) The name, address and telephone number of a person from whom additional information may be obtained.
- (9) Locations where copies of the complete allowance request and the department's proposed allowance allocation may be reviewed, including the nearest department office, and the times at which the copies will be available for public inspection.

c. At least 30 days shall be provided for public comment. Notice of any public hearing shall be given at least 30 days in advance of the hearing.

d. The department shall keep a record of the commenters and the issues raised during the public participation process and shall prepare written responses to all comments received.

e. At the time that the department submits to the Administrator the final allowance allocations from the compliance supplement pool, the record and copies of the department's responses shall be made available to the public.

**567—34.206(455B) CAIR NO<sub>x</sub> allowance tracking system.** The provisions in 40 CFR Part 96, Subpart FF, as amended through May 12, 2005, are adopted by reference.

**567—34.207(455B) CAIR NO<sub>x</sub> allowance transfers.** The provisions in 40 CFR Part 96, Subpart GG, as amended through May 12, 2005, are adopted by reference.

**567—34.208(455B) Monitoring and reporting.** The provisions in 40 CFR Part 96, Subpart HH, as amended through May 12, 2005, are adopted by reference.

**567—34.209(455B) CAIR NO<sub>x</sub> opt-in units.** The provisions in 40 CFR Part 96, Subpart II, as amended through May 12, 2005, are adopted by reference.

**567—34.210(455B) CAIR SO<sub>2</sub> trading program.** The provisions in 40 CFR Part 96, Subparts AAA through III, as amended through May 12, 2005, are adopted by reference, except that the definition of "permitting authority" contained in 96.202 shall mean the department of natural resources.

**567—34.211 to 34.219** Reserved.

**567—34.220(455B) CAIR NO<sub>x</sub> ozone season trading program.** The provisions in 40 CFR Part 96, Subparts AAAA through IIII, as amended through May 12, 2005, are adopted as indicated in rules 567—34.221(455B) through 567—34.229(455B).

**567—34.221(455B) CAIR NO<sub>x</sub> ozone season trading program general provisions.** The provisions in 40 CFR Part 96, Subpart AAAA (96.301 through 96.308), as amended through May 12, 2005, are adopted by reference, except that the definition of "permitting authority" in 96.302 shall mean the department of natural resources. Other terms contained in rules 567—34.221(455B) through 567—34.229(455B), and in Tables 2A and 2B, shall have the meanings set forth in 96.302.

**567—34.222(455B) CAIR designated representative for CAIR NO<sub>x</sub> ozone season sources.** The provisions in 40 CFR Part 96, Subpart BBBB, as amended through May 12, 2005, are adopted by reference.

**567—34.223(455B) CAIR NO<sub>x</sub> ozone season permits.** The provisions in 40 CFR Part 96, Subpart CCCC, as amended through May 12, 2005, are adopted by reference.

**567—34.224** Reserved.

**567—34.225(455B) CAIR NO<sub>x</sub> ozone season allowance allocations.** The provisions in 40 CFR Part 96, Subpart EEEE (96.340 through 96.342), as amended through May 12, 2005, are adopted by reference, except as indicated in this rule.

**34.225(1)** State trading budget. The provisions in 40 CFR 96.340 are not adopted by reference. The state's trading budget for annual allocations of CAIR NO<sub>x</sub> ozone season allowances for each control period from 2009 through 2014 is 14,263 tons. The state's trading budget for annual allocations of CAIR NO<sub>x</sub> ozone season allowances for each control period, starting in 2015, and for each control period thereafter, is 11,886 tons.

**34.225(2)** CAIR NO<sub>x</sub> ozone season allowance allocations. The provisions in 40 CFR 96.342 are adopted by reference, except for the second sentence in 96.342(c)(1), 96.342(c)(2) through (4) and 96.342(d). The second sentence in 96.342(c)(1) shall instead state that each new unit set-aside will be allocated CAIR NO<sub>x</sub> ozone season allowances equal to 5 percent for a control period in 2009 through 2014, and 3 percent for a control period in 2015 and thereafter, of the amount of tons of NO<sub>x</sub> emissions in the state trading budget as specified in subrule 34.225(1). The CAIR NO<sub>x</sub> ozone season allowances allocated to each designated CAIR NO<sub>x</sub> ozone season unit for each control period, including allocations for new units without a baseline heat input (as specified under 96.342(c)(1)), are set forth in Tables 2A and 2B. The allocations set forth in Tables 2A and 2B are the allocations initially provided by the department for each control period. Upon this initial allocation, allowances may be tracked, transferred, banked and recorded as specified under 40 CFR 96.350 through 96.362 as amended through May 12, 2005. As is necessary, the department may adopt final rules to adjust the initial CAIR NO<sub>x</sub> ozone season unit allocation for new units for the control period in 2015, and for each control period thereafter.

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**Table 2A. Ozone Season NO<sub>x</sub> Allocations for Existing Units in Tons Per Year**

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	7	54	46
Ames	Story	8	158	134
Burlington Generating Station	Des Moines	1	549	467
Cedar Falls Gas Turbine	Black Hawk	1	0	0
Cedar Falls Gas Turbine	Black Hawk	2	4	3
Council Bluffs Energy Center	Pottawattamie	1	133	114
Council Bluffs Energy Center	Pottawattamie	2	191	163
Council Bluffs Energy Center	Pottawattamie	3	1822	1550
Dubuque Generation Station	Dubuque	1	104	88
Dubuque Generation Station	Dubuque	5	66	56
Dubuque Generation Station	Dubuque	6	14	12
Earl F Wisdom Generation Station	Clay	1	32	27
Electrifarm Turbines	Black Hawk	GT1	6	5
Electrifarm Turbines	Black Hawk	GT2	7	6
Electrifarm Turbines	Black Hawk	GT3	6	5
Fair Station	Muscatine	2	92	79
George Neal North	Woodbury	1	331	281
George Neal North	Woodbury	2	603	513
George Neal North	Woodbury	3	1189	1012
George Neal South	Woodbury	4	1522	1295
Lansing Generating Station	Allamakee	1	4	3
Lansing Generating Station	Allamakee	2	6	5
Lansing Generating Station	Allamakee	3	77	66
Lansing Generating Station	Allamakee	4	495	421
Lime Creek Combustion Turbines Station	Cerro Gordo	**1	2	2
Lime Creek Combustion Turbines Station	Cerro Gordo	**2	2	1
Louisa Station	Muscatine	101	1632	1389
Marshalltown	Marshall	**1	3	2
Marshalltown	Marshall	**2	3	2
Marshalltown	Marshall	**3	3	2
Milton L Kapp Generating Station	Clinton	2	486	414
Muscatine	Muscatine	8	201	171
Muscatine	Muscatine	9	441	375
North Centerville Combustion Turbines	Appanoose	**1	1	1
North Centerville Combustion Turbines	Appanoose	**2	1	1
Ottumwa Generating Station	Wapello	1	1761	1498
Pella Station	Marion	6	28	24
Pella Station	Marion	7	35	30
Pella Station	Marion	8	0	0
Pleasant Hill	Polk	GT1	1	1
Pleasant Hill	Polk	GT2	1	1
Pleasant Hill	Polk	GT3	2	2
Prairie Creek Generating Station	Linn	3	134	114
Prairie Creek Generating Station	Linn	4	366	312
Riverside Station	Scott	9	252	214
Sixth Street Generating Station	Linn	2	54	46
Sixth Street Generating Station	Linn	3	52	44
Sixth Street Generating Station	Linn	4	44	38
Sixth Street Generating Station	Linn	5	83	71
Streeter Station	Black Hawk	7	40	34

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Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Summit Lake Facility	Union	1G	4	3
Summit Lake Facility	Union	2G	5	4
Sutherland Generating Station	Marshall	1	95	81
Sutherland Generating Station	Marshall	2	94	80
Sutherland Generating Station	Marshall	3	245	209
Sycamore Turbines	Polk	GT1	6	5
Sycamore Turbines	Polk	GT2	8	7

\*\*Denotes an affected unit for which the unit ID is unavailable.

**Table 2B. Ozone Season NO<sub>x</sub> Allocations for New Units in Tons Per Year**

Facility ID	County	Unit ID	2009 – 2014	2015 and thereafter
Ames	Story	GT2	22	11
Council Bluffs Energy Center	Pottawattamie	4	311	155
Earl F Wisdom Generation Station	Clay	2	32	16
Emery Station	Cerro Gordo	11	57	29
Emery Station	Cerro Gordo	12	57	29
Emery Station	Cerro Gordo	13	81	41
Exira Station	Audubon	CT U-1	16	8
Exira Station	Audubon	CT U-2	17	8
Greater Des Moines Energy Center	Polk	GT1	60	30
Greater Des Moines Energy Center	Polk	GT2	60	30

**567—34.226(455B) CAIR NO<sub>x</sub> ozone season allowance tracking system.** The provisions in 40 CFR Part 96, Subpart FFFF, as amended through May 12, 2005, are adopted by reference.

**567—34.227(455B) CAIR NO<sub>x</sub> ozone season allowance transfers.** The provisions in 40 CFR Part 96, Subpart GGGG, as amended through May 12, 2005, are adopted by reference.

**567—34.228(455B) CAIR NO<sub>x</sub> ozone season monitoring and reporting.** The provisions in 40 CFR Part 96, Subpart HHHH, as amended through May 12, 2005, are adopted by reference.

**567—34.229(455B) CAIR NO<sub>x</sub> ozone season opt-in units.** The provisions in 40 CFR Part 96, Subpart IIII, as amended through May 12, 2005, are adopted by reference.

These rules are intended to implement Iowa Code section 455B.133.

## ARC 4824B

# ENVIRONMENTAL PROTECTION COMMISSION[567]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 22, “Controlling Pollution,” Chapter 23, “Emission Standards for Contami-

nants,” and Chapter 25, “Measurement of Emissions,” and to adopt new Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” Iowa Administrative Code.

The purpose of the proposed amendments is to adopt the recently finalized federal Clean Air Mercury Rule (CAMR) into the state air quality rules. The proposed amendments will also make necessary updates and changes to existing air quality rules to implement CAMR.

On May 18, 2005, the U.S. Environmental Protection Agency (EPA) promulgated CAMR. These regulations will permanently cap and reduce mercury emissions from coal-fired power plants, the largest remaining sources of mercury emissions in the country. EPA estimates that, when fully implemented, CAMR will reduce utility mercury emissions in 48 states to 15 tons, a reduction of 70 percent from current levels.

Mercury is a toxic, persistent pollutant that accumulates in the food chain. Atmospheric mercury falls to earth through rain, snow and dry deposition and enters lakes and rivers. Once there, it can transform into methylmercury and can build up in fish tissue. Women of childbearing age who may be exposed to mercury from eating contaminated fish are regarded as the population of greatest concern. Children exposed to methylmercury before birth may be at risk for neurobehavioral problems.

EPA states that it has conducted extensive analysis of mercury emissions from power plants and subsequent regional patterns of deposition in U.S. waters. Those analyses conclude that regional transport of mercury emissions from power plants in the U.S. account for very little of the mercury deposition in the U.S. About 99 percent of global mercury emissions come from various natural sources throughout the world, and human-caused sources, primarily coal-fired power plants from outside the U.S. The small contribution of mercury deposition from U.S. power plants will be significantly reduced when CAMR is fully implemented.

CAMR builds upon another closely related federal regulation, the Clean Air Interstate Rule (CAIR). The first phase of CAMR, set to occur in 2010, is a nationwide, 38-ton cap

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on mercury, which EPA states will be achieved by the “co-benefit” reductions of reducing SO<sub>2</sub> and NO<sub>x</sub> under CAIR. That is, control technologies expected to be used to comply with CAIR, primarily flue gas desulfurization (FGD) for SO<sub>2</sub> control, and selective catalytic reduction (SCR) for NO<sub>x</sub> control, will also control mercury emissions and will achieve the first phase cap.

The second phase of CAMR is a nationwide, 15-ton cap on mercury emissions, which will occur in 2018. The second phase cap is based on the expectation that emerging control technologies for mercury, such as activated carbon injection (ACI), will become proven, cost-effective and deployable on a large scale.

CAMR also includes a new source performance standard for coal-fired electrical generating units (EGUs) constructed after January 30, 2004. These new sources will be required to meet a stringent emissions standard for mercury, as well as to conduct emissions testing and continuous monitoring for mercury.

Under CAMR, each state is provided with an annual emissions cap for mercury. Each state must meet the required mercury reductions either by (1) adopting EPA regulations that will require affected coal-fired, electric generating units (EGUs) to participate in an EPA-administered interstate cap and trade program, or (2) mandating source-by-source controls in such a way as to stay under the EPA-prescribed mercury cap.

In May 2005, the Department convened a workgroup to assist with rule-making activities related to the adoption of CAMR. The workgroup’s goal was to provide rule-making recommendations on the implementation options of the federal regulations. The Department invited the following parties to participate in the workgroup:

- Investor-owned, municipal and rural electric cooperative utilities;
- Iowa Association of Municipal Utilities and Iowa Utilities Association;
- Iowa Utilities Board and Consumer Advocate Office;
- Iowa’s university power plants;
- Sierra Club and Iowa Environmental Council;
- Iowa Association of Business and Industry;
- Iowa Department of Economic Development;
- U.S. EPA Region VII; and
- DNR’s Air Quality and Energy Bureaus.

The workgroup met five times between May and August 2005. All workgroup invitees, even those that elected not to participate in meetings, remained on the Department’s E-mail distribution list and were kept informed of the workgroup’s activities and meeting dates.

The majority of the workgroup members recommended that the Department adopt EPA’s cap and trade program for regulating mercury emissions from coal-fired electric generating units (EGUs). The Iowa Sierra Club did not endorse the cap and trade recommendation, stating that it does not support a cap and trade approach to emissions reductions, particularly for control of mercury emissions.

Under an emissions trading approach to CAMR, each ounce of mercury emitted annually from an affected facility (EGU) will require that the affected facility use one mercury allowance. The mercury allowances are traded on an EPA-administered open market, which will establish the trade currency (allowance) value.

Adopting the cap and trade approach to CAMR offers several advantages. The affected facilities are allowed the flexibility to determine the most appropriate method of compliance by securing allowances, reducing emissions, or insti-

tuting some combination of these approaches. The affected EGUs must still comply with CAMR’s requirements for continuous emissions monitoring for mercury.

The EPA-managed trading program also establishes automatic and punitive penalties on facilities that do not hold the required number of allowances at the end of each year. Further, states that adopt EPA’s cap and trade program to implement CAMR are afforded “automatic approval” of the required revisions to their state implementation plans (SIPs). Iowa has until November 2006 to adopt CAMR and submit the revisions for incorporation into Iowa’s SIP.

After carefully reviewing the CAMR provisions and considering the recommendations from all workgroup members, the Department is proposing to adopt EPA’s cap and trade program for implementing CAMR. This approach is the appropriate method for meeting the federal requirements for reducing cumulative, national emissions of mercury from coal-fired EGUs.

However, the Department is also responding to the Commission’s concerns, raised at the November 2005 Commission meeting, that the CAMR cap and trade provisions could allow adverse, local impacts resulting from mercury emissions from specific sources. To address this concern, the Department is proposing an amendment to Chapter 22, described below in the paragraph that summarizes Item 1.

These proposed amendments to implement CAMR will also amend a number of other air quality rules. CAMR amended the federal new source performance standards in 40 CFR Part 60 for electric utility steam generating units. The Department proposes to adopt these changes in Chapter 23. CAMR also amended emissions testing methods under 40 CFR Parts 60 and 75. The Department proposes to amend Chapter 25 to adopt these changes.

Additionally, the Department is proposing a new Chapter 34 that will contain the emissions trading provisions for CAMR. It is expected that EPA will promulgate other regulations in the future that will use the cap and trade approach similar to that of CAMR for reducing air pollutant emissions. The creation of Chapter 34 for air emissions trading will facilitate having all of these similar provisions in one location in the air quality rules.

The Department is simultaneously proposing a separate, similar rule making to implement the Clean Air Interstate Rule (CAIR) (see **ARC 4823B** herein). CAMR and CAIR are closely related because both allow primary implementation through an EPA-administered emissions cap and trade program. However, the Department plans to keep the CAMR and CAIR proposals separate in case one of the rule makings is delayed or terminated.

Item 1 amends subrule 22.3(5), which contains the conditions under which the Director may, after public notice of such a decision, modify an existing air construction permit for a major stationary source. The Department is proposing this amendment to address issues raised at the November 2005 Environmental Protection Commission meeting. Some members of the Commission expressed concern that the CAMR cap and trade provisions would not prevent adverse, local impacts resulting from the mercury emissions from specific sources. This amendment specifies that the Director may modify such permits to mitigate excessive mercury deposition.

Item 2 amends subrule 23.1(2) to update the new source performance standards to the May 18, 2005, date on which EPA promulgated CAMR, and thus amended 40 CFR Part 60, including the general provisions, certain subparts, and the appendices.

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Item 3 amends paragraph 23.1(2)“z,” standards for electric utility steam generating units, to adopt changes that EPA made to this standard to implement CAMR. In particular, EPA amended the definition for electric utility steam generating units, and added an emission standard for mercury for coal-fired units constructed or reconstructed after January 30, 2004.

Item 4 amends subrule 23.1(4) to note that the standards for mercury emissions from electric utility steam generating units are set forth in subrules 23.1(2) and 23.1(5), and in 567—Chapter 34. Subrule 23.1(4) is the location in which the Department has adopted federal regulations under 40 CFR Part 63 for hazardous air pollutants (HAPs) for source categories. Although mercury remains listed as a HAP, EPA is regulating mercury emissions from the electric utility steam generating units under 40 CFR Part 60, and not under 40 CFR Part 63. This amendment to subrule 23.1(4) directs the reader to the correct location of these rules.

Item 5 amends subrule 23.1(5) to reflect the May 18, 2005, date on which EPA promulgated CAMR and amended the emission guidelines contained in 40 CFR Part 60, including Subpart B and several appendices.

Item 6 amends subrule 23.1(5) to adopt a new paragraph “d,” containing a reference to the emission guidelines for mercury from coal-fired electric utility steam generating units. Subrule 23.1(5) is the subrule in which other federal emissions guidelines have been adopted. However, the CAMR provisions for 40 CFR Part 60, Subpart HHHH, are adopted in 567—Chapter 34. This new paragraph directs the reader to 567—Chapter 34.

Item 7 amends subrule 25.1(9), methods and procedures, to reflect the May 18, 2005, date on which EPA promulgated CAMR and amended the stack sampling methods and specifications contained in the appendices of 40 CFR Parts 60 and 75.

Item 8 amends rule 567—25.2(455B), continuous emission monitoring under the acid rain program, to reflect the May 18, 2005, date on which EPA promulgated CAMR and amended 40 CFR Part 75 and its appendices.

Item 9 amends 567—Chapter 25 to add new rule 25.3(455B) for continuous emissions monitoring under CAMR, which adopts 40 CFR Part 75 and its appendices, as amended through May 18, 2005.

Item 10 adopts new 567—Chapter 34 for air quality emissions trading programs. The provisions included in these proposed rules include the requirements for CAMR.

In general, the federal regulations for the CAMR emissions cap and trade program are adopted in Chapter 34 by reference. However, the proposed rules do note several sections of the federal regulations that are not adopted by reference.

The provisions of proposed Chapter 34 include the total mercury (Hg) state trading budget for Iowa, and two tables showing the annual Hg allowance allocations to each designated Hg unit in the state. The two tables show Hg allocations for existing and new Hg units. The Department proposes to adopt the federal rule provisions for determining the Hg allowance allocations. Upon annual allocation, the designated units may track, transfer, bank and record the allowances, as specified in the federal regulations adopted by reference. EPA will be the designated authority for implementing these components of the CAMR cap and trade program.

The Department proposes to adopt the federal rule provisions for classifying existing units and new units. However, the Department, based on recommendations from the workgroup members, proposes to allocate the annual allowances

for all new units at the time that Chapter 34 is adopted. Under EPA’s rules, the states have full discretion and flexibility on allowance allocations.

Any person may make written suggestions or comments on the proposed amendments on or before February 27, 2006. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Urbandale, Iowa 50322; fax (515)242-5094; or by electronic mail to [christine.paulson@dnr.state.ia.us](mailto:christine.paulson@dnr.state.ia.us).

A public hearing will be held on Tuesday, February 21, 2006, at 1 p.m. in the Gritter Room of Iowa Hall at Kirkwood Community College in Cedar Rapids, Iowa. A second public hearing will be held on Wednesday, February 22, 2006, at 1 p.m. in the conference rooms at the Department’s Air Quality Bureau located at 7900 Hickman Road, Urbandale, Iowa. Comments may be submitted orally or in writing at either of these public hearings. All comments must be received no later than February 27, 2006.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515)242-5154 to advise of any specific needs.

These amendments are intended to implement Iowa Code section 455B.133.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 22.3(5) as follows:

**22.3(5)** Modification of a permit. The director may, after public notice of such decision, modify a condition of approval of an existing permit for a major stationary source or an emission limit contained in an existing permit for a major stationary source if necessary to attain or maintain an ambient air quality standard, or to mitigate excessive deposition of mercury.

ITEM 2. Amend subrule 23.1(2), introductory paragraph, as follows:

**23.1(2)** New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~July 14, 2004~~, *May 18, 2005*, are adopted by reference, except § 60.530 through § 60.539b (Part 60, Subpart AAA), and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 3. Amend paragraph **23.1(2)“z”** as follows:

z. Electric utility steam generating units. An electric utility steam generating unit that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input of fossil fuel and for which construction or modification or reconstruction is commenced after September 18, 1978, or an electric utility combined cycle gas turbine that is capable of combusting more than 250 million Btus per hour (73 megawatts) heat input. *An electric utility steam generating unit is any fossil fuel-fired combustion unit of more than 25 megawatts electric (MW) that serves a generator that pro-*

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*duces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 MW output to any utility power distribution system for sale is also an electric utility steam generating unit. This standard also includes a provision for mercury emissions for any coal-fired electric utility steam generating unit other than an integrated gasification combined cycle electric steam generating unit, for which construction or reconstruction commenced after January 30, 2004. (Subpart Da as amended through May 18, 2005)*

ITEM 4. Amend subrule 23.1(4), introductory paragraph, as follows:

**23.1(4)** Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through January 10, 2005, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded ( $F_{bio}$ ) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purpose of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4)“a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below. *The provisions of 40 CFR Part 60, Subparts A, B, Da, and HHHH for the Clean Air Mercury Rule (CAMR), are found at subrules 23.1(2) and 23.1(5) and in 567—Chapter 34.*

ITEM 5. Amend subrule 23.1(5), introductory paragraph, as follows:

**23.1(5)** Emission guidelines. The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations Part 60 as amended through ~~July 23, 2004~~ *May 18, 2005*, shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. The control of the designated pollutants will be in accordance with federal standards established in Sections 111 and 129 of the Act and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the applicable subpart(s) for the existing source. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 6. Amend subrule **23.1(5)** by adopting **new** paragraph **“d”**:

d. Emission guidelines for mercury for coal-fired electric utility steam generating units. The provisions of 40 CFR Part 60, Subpart HHHH, are set forth in 567—Chapter 34.

ITEM 7. Amend subrule 25.1(9) as follows:

**25.1(9)** Methods and procedures. Stack sampling and associated analytical methods used to evaluate compliance with emission limitations of 567—Chapter 23 or a permit condition are those specified in the “Compliance Sampling Manual\*” adopted by the commission on May 19, 1977, as revised through January 30, 2003. Sampling methods, analytical determinations, minimum performance specifications and quality assurance procedures for performance evaluations of continuous monitoring systems are those found in Appendices A (as amended through October 17, 2000), B (as amended through ~~January 12, 2004~~ *May 18, 2005*) and F (as amended through January 12, 2004) of 40 CFR Part 60, and Appendices A (as amended through ~~August 16, 2002~~ *May 18, 2005*), and B (as amended through ~~September 9, 2002~~ *May 18, 2005*), *F (as amended through May 18, 2005) and K (as amended through May 18, 2005)* of 40 CFR Part 75.

\*Available from the department.

ITEM 8. Amend rule 567—25.2(455B) as follows:

**567—25.2(455B) Continuous emission monitoring under the acid rain program.** The continuous emission monitoring requirements for affected units under the acid rain program as provided in 40 CFR 75, as adopted ~~January 11, 1993,~~ *and including Appendices A, B, F and K as corrected or amended through October 24, 1997* *May 18, 2005*, are adopted by reference.

ITEM 9. Amend 567—Chapter 25 by adopting **new** rule 567—25.3(455B) as follows:

**567—25.3(455B) Continuous emission monitoring under the Clean Air Mercury Rule (CAMR).** The provisions in 40 CFR Part 75, including Appendices A, B, F and K, as amended through May 18, 2005, are adopted by reference.

ITEM 10. Adopt **new** 567—Chapter 34 as follows:

CHAPTER 34  
PROVISIONS FOR AIR QUALITY  
EMISSIONS TRADING PROGRAMS

**567—34.1(455B) Purpose.** This chapter implements the provisions for certain federal air emissions trading programs to control emissions of specific pollutants.

**567—34.2 to 34.299** Reserved.

**567—34.300(455B) Provisions for air emissions trading and other requirements for the Clean Air Mercury Rule (CAMR).** The CAMR provisions in 40 CFR Part 60, Subpart HHHH, as amended through May 18, 2005, are adopted as indicated in rules 567—34.301(455B) through 567—34.308(455B). Additional provisions for CAMR are set forth in 567—subrule 23.1(2), paragraph 23.1(2)“z,” subrule 23.1(5), and subrule 25.1(9) and rule 567—25.3(455B).

**567—34.301(455B) Mercury (Hg) budget trading program general provisions.** The provisions in 40 CFR 60.4101 through 60.4108 as amended through May 18, 2005, are adopted by reference, except that the definition of “permitting authority” in 60.4102 shall mean the department of natural resources. Other terms contained in rules 567—

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

34.301(455B) through 34.308(455B), and in Tables 3A and 3B, shall have the meanings set forth in 60.4102.

**567—34.302(455B) Hg designated representative for Hg budget sources.** The provisions in 40 CFR 60.4110 through 60.4114 as amended through May 18, 2005, are adopted by reference.

**567—34.303(455B) General Hg budget trading program permit requirements.** The provisions in 40 CFR 60.4120 through 60.4124 as amended through May 18, 2005, are adopted by reference.

**567—34.304(455B) Hg allowance allocations.** The provisions in 40 CFR 60.4140 through 60.4142 as amended through May 18, 2005, are adopted by reference, except as indicated in this rule.

**34.304(1) State trading budget.** The provisions of 40 CFR 60.4140 are not adopted by reference. The state's trading budget for annual allocations of Hg allowances for each control period from 2010 through 2017 is 0.727 tons (23,264

ounces). The state's trading budget for annual allocations of Hg allowances for the control period, starting in 2018, and for each control period thereafter, is 0.287 tons (9,184 ounces).

**34.304(2) Hg allowance allocations.** The provisions of 40 CFR 60.4142 are adopted by reference, except for 60.4142(c)(2) through (4) and 60.4142(d). The Hg allowances allocated to each designated Hg unit for each control period, including allocations for new units without a baseline heat input (as specified under 60.4142(c)(1)), are set forth in Tables 3A and 3B. The allocations set forth in Tables 3A and 3B are the allocations initially provided by the department for each control period. Upon this initial allocation, allowances may be tracked, transferred, banked and recorded as specified in 40 CFR 60.4150 through 60.4176 as amended through May 18, 2005. As is necessary, the department may adopt final rules to adjust the initial Hg unit allowance allocation for new units for the control period in 2018, and for each control period thereafter.

**Table 3A. Mercury (Hg) Allowance Allocations for Existing Units in Ounces Per Year**

Facility ID	County	Unit ID	2010 – 2017	2018 and thereafter
Ames	Story	7	68	28
Ames	Story	8	244	98
Burlington Generating Station	Des Moines	1	823	332
Council Bluffs Energy Center	Pottawattamie	1	220	88
Council Bluffs Energy Center	Pottawattamie	2	330	133
Council Bluffs Energy Center	Pottawattamie	3	2961	1194
Dubuque Generation Station	Dubuque	1	151	61
Dubuque Generation Station	Dubuque	5	104	42
Dubuque Generation Station	Dubuque	6	15	6
Earl F Wisdom Generation Station	Clay	1	43	17
Fair Station	Muscatine	2	117	47
George Neal North	Woodbury	1	547	221
George Neal North	Woodbury	2	1020	411
George Neal North	Woodbury	3	1925	776
George Neal South	Woodbury	4	2526	1018
Lansing Generating Station	Allamakee	1	4	2
Lansing Generating Station	Allamakee	2	9	4
Lansing Generating Station	Allamakee	3	116	47
Lansing Generating Station	Allamakee	4	834	336
Louisa Station	Muscatine	101	2823	1138
Milton L Kapp Generating Station	Clinton	2	779	314
Muscatine	Muscatine	8	349	141
Muscatine	Muscatine	9	686	277
Ottumwa Generating Station	Wapello	1	2982	1202
Pella Station	Marion	6	50	20
Pella Station	Marion	7	51	20
Prairie Creek Generating Station	Linn	3	227	91
Prairie Creek Generating Station	Linn	4	552	222
Riverside Station	Scott	9	423	170
Sixth Street Generating Station	Linn	2	84	34
Sixth Street Generating Station	Linn	3	89	36
Sixth Street Generating Station	Linn	4	66	27
Sixth Street Generating Station	Linn	5	142	57
Streeter Station	Black Hawk	7	60	24
Sutherland Generating Station	Marshall	1	151	61
Sutherland Generating Station	Marshall	2	152	61
Sutherland Generating Station	Marshall	3	378	152

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

**Table 3B. Mercury (Hg) Allowance Allocations for New Units in Ounces Per Year**

Facility ID	County	Unit ID	2010 – 2017	2018 and thereafter
Council Bluffs Energy Center	Pottawattamie	4	1163	276

**567—34.305(455B) Hg allowance tracking system.** The provisions in 40 CFR 60.4150 through 60.4157 as amended through May 18, 2005, are adopted by reference.

**567—34.306(455B) Hg allowance transfers.** The provisions in 40 CFR 60.4160 through 60.4162 as amended through May 18, 2005, are adopted by reference.

**567—34.307(455B) Monitoring and reporting.** The provisions in 40 CFR Part 60.4170 through 60.4176 as amended through May 18, 2005, are adopted by reference.

**567—34.308(455B) Performance specifications.** The provisions in 40 CFR Part 60, Appendix B as amended through May 18, 2005, are adopted by reference.

These rules are intended to implement Iowa Code section 455B.133.

## ARC 4825B

# ENVIRONMENTAL PROTECTION COMMISSION[567]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455F.5, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 144, “Household Hazardous Materials,” Iowa Administrative Code.

Iowa Code chapter 455F includes in the definition of a household hazardous material hazardous waste and hazardous substances used for residential purposes. Adding hazardous waste and hazardous substances to the rule will make it consistent with the Iowa Code.

EPA has determined that color CRTs are a hazardous waste based on the toxicity characteristic leaching procedure (TCLP) test for lead. The average concentration of lead in leachate from EPA’s TCLP is 22.2 milligrams per liter. Materials testing above 5 milligrams per liter of lead are classified as hazardous by EPA (see Federal Register, Volume 67, Number 113, dated June 12, 2002). Therefore, color CRTs will be added to the definition of household hazardous materials to reflect EPA’s hazardous waste classification rules.

Retailers that sell household hazardous materials are required to obtain a Household Hazardous Materials Permit and post information materials provided by the Department. The permit fee is \$25 annually. By adding CRTs to the list of household hazardous materials, retailers who sell CRTs will be required to purchase the Household Hazardous Materials (HHM) Retailers Permit each year and make information available to customers as to where they can properly dispose of household hazardous materials. Many CRT retailers are already required to obtain a Household Hazardous Material permit due to other items sold such as solvents, motor oil, gasoline and diesel fuel additives, waxes and polishes, oil-based or aerosol paints and caustic household cleaners.

Any interested person may make written suggestions or comments pertaining to the proposed rule revisions on or before February 8, 2006. Such written materials should be directed to Theresa Stiner, Energy and Waste Management Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-8895; or E-mail [Theresa.Stiner@dnr.state.ia.us](mailto:Theresa.Stiner@dnr.state.ia.us). Persons wishing to convey their views orally should contact Theresa Stiner at (515)281-8646.

When submitting comments, the Energy and Waste Management Bureau encourages stakeholders to utilize the following guidelines. These guidelines aid the Bureau in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business, organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

A public hearing will be held on February 8, 2006, at 11 a.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements, such as hearing or mobility impairments, should contact the Department of Natural Resources to advise of specific needs.

This amendment is intended to implement Iowa Code chapter 455F.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 567—144.3(455F) as follows:

**567—144.3(455F) Household hazardous materials.** *This rule defines what materials constitute household hazardous materials when sold for use in a residence.*

**144.3(1) Types of materials included.** *Household hazardous materials include:*

- a. Any hazardous substance as defined in Iowa Code section 455B.411, subsection 2;
- b. Any hazardous waste as defined in Iowa Code section 455B.411, subsection 3(a) and 3(b).

**144.3(1) 144.3(2) Products included.** *Household hazardous materials include, but are not limited to, any any brand, grade, size or volume of the following products constitutes household hazardous materials:*

- a. Motor oils and motor oil additives,
- b. Motor oil filters,
- c. Gasoline additives,
- d. Diesel fuel additives,
- e. Degreasers,

## ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

- f. Waxes and polishes (excluding nail polish),
- g. Solvents (excluding water),
- h. Paints (excluding latex-based paints),
- i. Lacquers,
- j. Thinners (excluding water),
- k. Caustic household cleaners,
- l. Spot and stain removers with a petroleum base,
- m. Petroleum-based fertilizers,
- n. *Color cathode ray tubes (CRTs)*.

**144.3(2) 144.3(3)** Exemptions. A household hazardous material does not include laundry detergents or soaps, dish-washing compounds, chlorine bleach, personal care products, personal care soaps, cosmetics, animal and human medications, and pharmaceuticals.

**ARC 4822B****HUMAN SERVICES  
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6(4), the Department of Human Services proposes to amend Chapter 65, “Food Assistance Program Administration,” Iowa Administrative Code.

These amendments change provisions for collection of Food Assistance claims to make claim establishment and collection more efficient. Federal regulations set requirements for collection of overpayments made because of intentional program violations, but states have discretion in setting policies for collection of overpayments made due to agency errors or inadvertent household errors. (An inadvertent household error is due to a misunderstanding or an unintended error on the part of the household in providing information about the household’s circumstances. An agency error is due to the Department’s action or failure to take action, such as incorrect computer entries or calculations.)

In March 2005, the Department received the findings of a federal state agency operations review conducted by the USDA Food and Nutrition Service. The review concluded that Iowa was deficient in timely claims establishment and in rate of claims collections. Federal law requires that 90 percent of claims be established within 90 days after the error is discovered. The review found that 70 percent of Iowa claims were established within that 90-day period. The Department has submitted a corrective action plan to address these deficiencies. The plan is intended to maximize the effectiveness of Iowa’s collection efforts and to provide a more equitable performance measurement system by setting claim periods and thresholds that are similar to those of other states. These amendments formalize key elements of that plan:

- That agency error claims be established back no more than 12 months from the date of discovery and inadvertent household error claims be established back no more than 24 months from the date of discovery.
- That claims of these types be established only when the amount of the overpayment exceeds \$125 for a household that currently receives Food Assistance or exceeds \$450 for a

household that is no longer receiving Food Assistance benefits.

Currently, the limit on claim establishment is three years back from the date of discovery. This period is longer than that required by most other states and longer than the federal minimum standard, which is 12 months. Documenting facts from a period farther in the past is more time-consuming for eligibility workers and may result in a lower rate of establishment than is achieved by other states. When an agency error inappropriately limits benefits, states may restore only 12 months’ lost benefits, so recovering only 12 months’ overpayments would result in equal treatment regardless of the direction of the error.

Federal regulations allow states to establish their own cost-effectiveness thresholds for collection of overpayments in the inadvertent household error and agency error categories. The cost-effectiveness calculation compares the amount of money potentially recoverable through a claim with the expenses the state incurs in establishing and collecting the claim. All of the collections on agency error claims and 80 percent of the collections on inadvertent household error claims are returned to the federal government.

The Department has determined that an eligibility worker needs an average of ten hours to establish a claim on a household that is not currently receiving Food Assistance because of the difficulty of obtaining information about the household. The cost of that worker time is estimated at \$310. Additional costs associated with appeals and collection efforts bring the total estimated cost to \$450 per claim. Because the Department has better access to information on participating households and is often able to collect the claim through benefit reduction instead of more expensive methods, the cost-effectiveness threshold for claims against participating households is estimated to be \$125. The USDA Food and Nutrition Service has approved the Department’s cost-effectiveness analysis.

These amendments also make technical corrections to references to a Department organizational unit, the Iowa Department of Workforce Development, and a form from that department.

These amendments do not provide for waivers in specified situations because federal law does not allow the Department to waive Food Assistance policies.

Any interested person may make written comments on the proposed amendments on or before February 8, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments are intended to implement Iowa Code section 234.12.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 441—65.16(234) as follows:

**441—65.16(234) Complaint system.** Clients wishing to file a formal written complaint concerning the food assistance program may submit Form 470-0323, or 470-0327 (Spanish), Food Assistance Complaint, to the office of field operations support unit. Department staff shall encourage clients to use the form.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 2. Amend rule 441—65.21(234) as follows:

Amend subrule 65.21(1) as follows:

**65.21(1)** Time period. ~~Inadvertent household error and agency error claims~~ *Claims* shall be calculated back to the month when the error originally occurred to a maximum of three years prior to month of discovery of the overissuance, except as follows:

a. *Claims due to agency errors shall be calculated back a maximum of 12 months from the month of discovery.*

b. *Claims due to inadvertent household errors shall be calculated back a maximum of 24 months from the month of discovery.*

Adopt **new** subrule 65.21(2) as follows:

**65.21(2)** Claim thresholds. Unless the error was discovered through quality control review, agency error and inadvertent household error claims shall not be established for an amount less than:

a. \$126 for a household that is currently participating in the food assistance program.

b. \$451 for a household that is not currently participating in the food assistance program.

ITEM 3. Amend subrule **65.28(8)**, paragraph “**d**,” as follows:

d. Individual job search (IJS). Participants in IJS shall receive information about the program. At a minimum, the orientation shall include an explanation of services provided, of participation requirements, and of each participant’s rights and responsibilities. ~~Employment services Workforce development~~ staff shall require each participant to read and sign Form 62-2053, Your Rights and Responsibilities, at the conclusion of the presentation, acknowledging that a complete explanation of the program and what constitutes noncompliance and the sanctions for noncompliance has been provided.

(1) ~~Employment services Workforce development~~ staff shall give each participant a job search assignment. ~~Employment services Workforce development~~ staff shall require the participant to contact up to 24 employers, face to face, for the purpose of submitting employment applications and arranging for employment interviews. To qualify as a job contact, the participants must present themselves to prospective employers as available for work.

(2) The prospective employer must ordinarily employ persons in areas of work for which the applicant is reasonably qualified based on the participant’s skills, prior work experience and level of education. The participant may not contact the same employer more than once during the component unless the initial contact indicated that vacancies in suitable positions might soon exist. ~~Employment services Workforce development~~ staff shall require each participant to submit written documentation of employer contacts made using Form 60-0259, *Job Service IWD Work Search Record Form*. The participant shall provide documentation in person to ~~employment services workforce development~~ staff at a scheduled meeting at the conclusion of the four-week participation period. At the beginning of the period, ~~employment services workforce development~~ staff shall give each participant written notice of the time, date, and location of this meeting.

**ARC 4828B**

## LABOR SERVICES DIVISION[875]

### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 88.5, the Labor Commissioner hereby gives Notice of Intended Action to amend Chapter 10, “General Industry Safety and Health Rules,” and Chapter 26, “Construction Safety and Health Rules,” Iowa Administrative Code.

The proposed amendments adopt by reference changes to federal occupational safety and health regulations. The changes are Phase II of the U.S. Department of Labor, Occupational Safety and Health Administration’s Standards Improvement Project. The changes are intended to streamline standards, increase consistency, and remove standards that are outdated, duplicative and unnecessary.

The principal reasons for adoption of these amendments are to implement Iowa Code chapter 88, to protect the safety and health of Iowa’s workers, and to make Iowa’s occupational safety and health regulations more current and consistent with federal regulations.

Pursuant to Iowa Code subsection 88.5(1)(a), Iowa must adopt the federal standards.

This amendment will not necessitate combined expenditures exceeding \$100,000 by all political subdivisions or agencies and entities that contract with political subdivisions to provide services.

Written data, views, or arguments to be considered in adoption must be submitted no later than February 10, 2006, to Division of Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319-0209. Comments may be sent electronically to [kathleen.uehling@iowa.gov](mailto:kathleen.uehling@iowa.gov).

A public hearing will be held on February 10, 2006, at 9 a.m. in the Capitol View Room at Iowa Workforce Development, 1000 East Grand Avenue, Des Moines, Iowa. The public will be given the opportunity to make oral statements and submit documents. The facility for the oral presentations is accessible to and functional for persons with physical disabilities. Persons who have special requirements should telephone (515)242-5869 in advance to arrange access or other needed services.

These amendments are intended to implement Iowa Code section 88.5.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **875—10.20(88)** by inserting the following at the end thereof:

70 Fed. Reg. 1140 (January 5, 2005)

ITEM 2. Amend rule **875—26.1(88)** by inserting the following at the end thereof:

70 Fed. Reg. 1143 (January 5, 2005)

**ARC 4820B**  
**PHARMACY EXAMINERS**  
**BOARD[657]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 2, “Pharmacist Licenses,” and Chapter 4, “Pharmacist-Interns,” Iowa Administrative Code.

The amendments were approved at the November 16, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments change the requirements for a foreign pharmacy graduate to demonstrate proficiency in the English language, recognizing the new Internet Based Test of English as a Foreign Language as an alternative to the currently accepted combination of the Test of English as a Foreign Language and the Test of Spoken English, and update the name of the foreign pharmacy graduate certification body.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on February 7, 2006. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688; or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

These amendments are intended to implement Iowa Code sections 155A.6 and 155A.9.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 2.10(1) as follows:

**2.10(1)** Education equivalency. Any applicant who is a graduate of a school or college of pharmacy located outside the United States that has not been recognized and approved by the board shall be deemed to have satisfied the requirements of Iowa Code section 155A.8, subsection 1, by certification by the Foreign Pharmacy Graduate ~~Equivalency Commission Examination Committee~~ (FPGEC). Each applicant shall have successfully passed the Foreign Pharmacy Graduate Equivalency Examination (FPGEE) given by the FPGEC established by the NABP. The FPGEE is hereby recognized and approved by the board. Each applicant shall also demonstrate proficiency in written English by passing the Test of English as a Foreign Language (TOEFL) and proficiency in spoken English by passing the Test of Spoken English (TSE) *or proficiency in basic English language skills by passing the Internet Based TOEFL (TOEFL iBT)*. The TOEFL, *TOEFL iBT*, and TSE are hereby recognized and approved by the board. Certification by the FPGEC shall be evidence of the

applicant’s successfully passing the FPGEE, TSE, and TOEFL, *or the FPGEE and TOEFL iBT*, and certification is a prerequisite to taking the licensure examinations required in subrule 2.1(1).

ITEM 2. Amend rule 657—4.7(155A) as follows:

**657—4.7(155A) Foreign pharmacy graduates.** Foreign pharmacy graduates who are candidates for licensure in Iowa will be required to obtain a minimum of 1500 hours of internship in a licensed pharmacy or other board-approved location. These candidates shall register with the board as provided in rule 4.6(155A). Internship credit will not be granted until the candidate has been issued an intern registration. Applications for registration shall be accompanied by certification from the Foreign Pharmacy Graduate Examination ~~Commission~~ *Committee* (FPGEC) ~~that the foreign pharmacy graduate has passed the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), the Test of Spoken English (TSE), and the Test of English as a Foreign Language (TOEFL) as provided in 657—subrule 2.10(1).~~ The board may grant credit to a foreign pharmacy graduate, based on the candidate’s experience in the practice of pharmacy, for all or any portion of the required 1500 hours of internship training. The candidate shall provide detailed information regarding the candidate’s experience in the practice of pharmacy. The board shall determine, on a case-by-case basis, whether and to what extent the candidate’s experience meets the goals and objectives established in rule 4.2(155A).

**ARC 4819B**

**PHARMACY EXAMINERS**  
**BOARD[657]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 155A.6, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 3, “Pharmacy Technicians,” Iowa Administrative Code.

The amendment was approved at the November 16, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment reduces the time within which an individual who assumes the duties of a pharmacy technician is required to register as a pharmacy technician from within 90 days to within 30 days of accepting employment as a pharmacy technician in Iowa.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on February 7, 2006. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

This amendment is intended to implement Iowa Code section 155A.6.

## PHARMACY EXAMINERS BOARD[657](cont'd)

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule 3.3(2) as follows:

**3.3(2)** Original application required. Any person not currently registered with the board as a pharmacy technician shall complete an application for registration within 90 30 days of accepting employment in an Iowa pharmacy as a pharmacy technician. Such application shall be received in the board office before the expiration of this 90-day 30-day period.

**ARC 4818B****PHARMACY EXAMINERS  
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 155A.13, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 6, “General Pharmacy Practice,” Iowa Administrative Code.

The amendment was approved at the November 16, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment adds to the list of responsibilities of the pharmacist in charge ensuring adequate space within the prescription department or a secure storage area for the storage of prescription drugs, devices, and controlled substances.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on February 7, 2006. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

This amendment is intended to implement Iowa Code section 155A.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 657—6.2(155A) as follows:

**657—6.2(155A) Pharmacist in charge.** One professionally competent, legally qualified pharmacist in charge in each pharmacy shall be responsible for, at a minimum, the following:

1. Ensuring that the pharmacy utilizes an ongoing, systematic program for achieving performance improvement and ensuring the quality of pharmaceutical services;
2. Ensuring that the pharmacy employs an adequate number of qualified personnel commensurate with the size and scope of services provided by the pharmacy;
3. Ensuring the availability of any equipment and references necessary for the particular practice of pharmacy;
4. Ensuring that a pharmacist performs prospective drug use review as specified in rule 657—8.21(155A);
5. Ensuring that a pharmacist provides patient counseling as specified in rule 6.14(155A);
6. Dispensing drugs to patients, including the packaging, preparation, compounding, and labeling functions performed by pharmacy personnel;
7. Delivering drugs to the patient or the patient's agent;
8. Ensuring that patient medication records are maintained as specified in rule 6.13(155A);
9. Training pharmacy technicians and supportive personnel;
10. Procuring and storing prescription drugs and devices and other products dispensed from the pharmacy;
11. ~~Disposing of Distributing and distributing disposing~~ of drugs from the pharmacy;
12. Maintaining records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all drugs as required by applicable state and federal laws, rules, and regulations;
13. Establishing and maintaining effective controls against the theft or diversion of prescription drugs and records for such drugs;
14. Establishing and implementing policies and procedures for all operations of the pharmacy;
15. Ensuring the legal operation of the pharmacy, including meeting all inspection and other requirements of state and federal laws, rules, and regulations governing the practice of pharmacy; ;
16. *Ensuring that there is adequate space within the prescription department or a locked room not accessible to the public for the storage of prescription drugs, devices, and controlled substances and to support the operations of the pharmacy.*

**ARC 4817B****PHARMACY EXAMINERS  
BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 147.76 and 155A.13, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 8, “Universal Practice Standards,” Iowa Administrative Code.

The amendments were approved at the November 16, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendments clarify the definition of kick-backs and amend the license fee imposed for pharmacy li-

## PHARMACY EXAMINERS BOARD[657](cont'd)

license changes to comply with current fees for a pharmacy license.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendments not later than 4:30 p.m. on February 7, 2006. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

These amendments are intended to implement Iowa Code sections 155A.13, 155A.13A, and 155A.19.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 8.11(5) as follows:

**8.11(5)** Freedom of choice/solicitation/kickbacks/fee-splitting and imprinted prescription blanks or forms. A pharmacist or pharmacy shall not enter into any agreement which negates a patient's freedom of choice of pharmacy services. A pharmacist shall not participate in agreements or arrangements with any person, corporation, partnership, association, firm, or others involving premiums, "kickbacks," fee-splitting, or special charges in exchange for recommending, promoting, accepting, or promising to accept the professional pharmaceutical services of any pharmacist or pharmacy as compensation or inducement for placement of business or solicitation of patronage with any pharmacist or pharmacy. "Kickbacks" ~~include~~ *includes*, but ~~are~~ *is* not limited to, *the provision of medication carts, facsimile machines, any other equipment, or preprinted forms or supplies for the exclusive use of the registrant a facility or practitioner at no charge or billed below reasonable market rate.* A pharmacist shall not provide, cause to be provided, or offer to provide to any person authorized to prescribe, prescription blanks or forms bearing the pharmacist's or pharmacy's name, address, or other means of identification.

ITEM 2. Amend subrule 8.35(6), introductory paragraph, as follows:

**8.35(6)** Pharmacy license changes. When a pharmacy changes its name, location, ownership, or pharmacist in charge, a new pharmacy license application with a \$100 license fee *as provided in subrule 8.35(4)* shall be submitted to the board office. Upon receipt of the fee and properly completed application, the board will issue a new pharmacy license certificate. The old license certificate shall be returned to the board office within ten days of the change of name, location, ownership, or pharmacist in charge.

**ARC 4816B****PHARMACY EXAMINERS BOARD[657]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 124.301, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 10, "Controlled Substances," Iowa Administrative Code.

The amendment was approved at the November 16, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment requires that the record of dispensing a pseudoephedrine product by a pharmacist be legible and include the total milligrams of pseudoephedrine contained in the dispensed product.

Requests for waiver or variance of the discretionary provisions of these rules will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on February 7, 2006. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

This amendment is intended to implement Iowa Code section 124.212 and Iowa Code Supplement section 124.212(4).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrule **10.31(7)**, paragraph "a," introductory paragraph, as follows:

a. *A legible* dispensing record shall be created and maintained for the dispensing of pseudoephedrine products pursuant to this subrule. The record shall contain the name and address of each purchaser, the name and quantity of the product purchased *including the total milligrams of pseudoephedrine contained in the product*, the date of each purchase, and the name or unique identification of the pharmacist who dispensed the product to the purchaser. The record may be maintained using one of the following options:

## ARC 4815B

### PHARMACY EXAMINERS BOARD[657]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Pharmacy Examiners hereby gives Notice of Intended Action to amend Chapter 20, “Pharmacy Compounding Practices,” Iowa Administrative Code.

The amendment was approved at the November 16, 2005, regular meeting of the Board of Pharmacy Examiners.

The proposed amendment clarifies that a pharmacy (Pharmacy A) may sell a compounded drug product prepared pursuant to a prescriber’s prescription drug order and Board rules to another pharmacy (Pharmacy B) for administration to a patient of Pharmacy B and that Pharmacy B may then bill the patient or the patient’s fiscal agent for the compounded drug product.

Requests for waiver or variance of the discretionary provisions of this rule will be considered pursuant to 657—Chapter 34.

Any interested person may present written comments, data, views, and arguments on the proposed amendment not later than 4:30 p.m. on February 7, 2006. Such written materials should be sent to Terry Witkowski, Executive Officer, Board of Pharmacy Examiners, 400 S.W. Eighth Street, Suite E, Des Moines, Iowa 50309-4688, or by E-mail to [terry.witkowski@iowa.gov](mailto:terry.witkowski@iowa.gov).

This amendment is intended to implement Iowa Code section 155A.13.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subrule 20.3(4) as follows:

**20.3(4)** Advertising and resale of compounded drug products. The sale of compounded drug products to other pharmacies or to prescribers, *except as provided in this subrule*, is considered manufacturing. Pharmacists shall not offer compounded drug products to other licensed persons or commercial entities for subsequent resale except in the course of professional practice for a practitioner to administer to an individual patient. *A compounding pharmacy (Pharmacy A) may sell to another pharmacy (Pharmacy B) a compounded drug product prepared pursuant to a prescriber’s authorization for administration to a specific patient. The label affixed to the compounded drug product shall identify Pharmacy A as the dispensing pharmacy, and Pharmacy A shall maintain the original prescription drug order. These rules shall not prohibit Pharmacy B from billing the patient or the patient’s fiscal agent for a compounded product prepared for the patient and purchased by Pharmacy B pursuant to this subrule.* Compounding pharmacies or pharmacists may advertise or otherwise promote the fact that they provide prescription drug compounding services. Compounding pharmacies or

pharmacists shall not make a claim, assertion, or inference of professional superiority in the compounding of drug products that cannot be substantiated. All advertisements shall meet the requirements contained in 657—8.12(126,155A). Nothing in these rules shall prohibit the centralized filling or processing of a prescription drug order for a compounded drug product by a central fill or processing pharmacy on behalf of an originating pharmacy as provided in 657—Chapter 18.

## ARC 4810B

### PROFESSIONAL LICENSURE DIVISION[645]

#### Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Athletic Training Examiners hereby gives Notice of Intended Action to amend Chapter 353, “Discipline for Athletic Trainers,” Iowa Administrative Code.

The proposed amendment provides the Board the ability to order an examination for mental, physical, or clinical competency or alcohol or drug screening.

Any interested person may make written comments on the proposed amendment no later than February 7, 2006, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail [pwilson@idph.state.ia.us](mailto:pwilson@idph.state.ia.us).

A public hearing will be held on February 7, 2006, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 152D and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Adopt **new** rule 645—353.5(152D) as follows:

**645—353.5(152D) Order for mental, physical, or clinical competency examination or alcohol or drug screening.** A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a mental, physical, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee’s expense.

**353.5(1)** Content of order. A board order for a mental, physical, or clinical competency examination shall include the following items:

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the examination or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time which the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the examination or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.
- h. A concise statement of the facts relied on by the board to order the examination.

**353.5(2) Alternatives.** Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request the board to approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

**353.5(3) Objection to order.** A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. A contested case involving an objection to an examination order will be captioned in the name of Jane Doe or John Doe in order to maintain the licensee’s confidentiality.

**353.5(4) Closed hearing.** Any hearing on an objection to the board order shall be closed pursuant to Iowa Code section 272C.6(4).

**353.5(5) Order and reports confidential.** An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4).

**353.5(6) Admissibility.** In the event the licensee submits to examination and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians’ or health care providers’ testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

**353.5(7) Failure to submit.** Failure of a licensee to submit to a board-ordered mental, physical, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

**PUBLIC SAFETY DEPARTMENT**

**Public Notice**

Pursuant to the authority of Iowa Code sections 321J.4, 321J.4B, 321J.9, 321J.17 and 321J.20, and in accordance with 661 Iowa Administrative Code subrule 7.8(2), the following devices are approved for use in the State of Iowa as ignition interlock devices.

Device	Company	Company Location
CST Intoxalock	Consumer Safety Technology, Inc.	Clive, Iowa
Lifesaver Interlock, FC 100	Lifesaver Interlock, Inc.	Cincinnati, Ohio
IMT Lifesaver Interlock	Lifesaver Interlock, Inc.	Cincinnati, Ohio
Autosense Interlock	Autosense International	San Jose, California
Guardian Interlock, Model 4.4	Guardian Interlock Systems	Marietta, Georgia
Draeger 920 Interlock	Draeger Safety Diagnostics, Inc.	Durango, Colorado
Draeger XT Interlock	Draeger Safety Diagnostics, Inc.	Durango, Colorado

The listed devices are approved for use in Iowa effective January 1, 2006. This list supersedes any previous list of approved devices.

This list represents devices that have been approved by the Commissioner of Public Safety as of the effective date of this notice. This list is published for the convenience of the public. The Commissioner may approve other devices in the future. This list will be updated periodically to show any additional devices that have been approved. You may contact the Iowa Division of Criminal Investigation Criminalistics Laboratory to inquire whether the Commissioner has approved any additional devices.

Any manufacturer of an ignition interlock device may apply to have the device approved for use in the State of Iowa. Contact the Iowa Division of Criminal Investigation Criminalistics Laboratory at the following address for instructions:  
 Iowa Department of Public Safety  
 DCI Criminalistics Laboratory  
 2240 S. Ankeny Blvd.  
 Ankeny, Iowa 50023-9093

**ARC 4833B**

**REVENUE DEPARTMENT[701]**

**Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3, 421.14, 421.17(18) and 422.68, the Department of Revenue hereby gives Notice of Intended Action to adopt new Chapter 235, “Rebate of Sales Tax Paid,” Iowa Administrative Code.

New Chapter 235 is created to implement Iowa Code Supplement section 423.4(5) and 2005 Iowa Acts, chapter 110,

REVENUE DEPARTMENT[701](cont'd)

which provide for a rebate pilot program of Iowa sales tax to qualifying owners and operators of sanctioned automobile racetrack facilities in order to increase tourism in Iowa.

The proposed rule will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of this rule would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that this proposed rule may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 20, 2006, to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on this proposed rule on or before February 7, 2006. Such written comments should be directed to the Policy Section, Compliance Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Compliance Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by February 10, 2006.

This rule is intended to implement Iowa Code Supplement section 423.4(5) and 2005 Iowa Acts, chapter 110.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** 701—Chapter 235 as follows:

CHAPTER 235  
REBATE OF IOWA SALES TAX PAID

**701—235.1(423) Sanctioned automobile racetrack facilities.** Effective July 1, 2005, qualifying rebates of Iowa state sales tax may be made to the owner or operator of a sanctioned automobile racetrack facility as defined in this rule for sales occurring on or after January 1, 2006, and ending June 30, 2016. This rebate program should be viewed as a pilot project as a means to increase tourism in the state. Qualifying rebates are for state sales tax only. Local option taxes are not subject to rebate under this program.

**235.1(1) Definitions.** For the purpose of this program, the following definitions apply:

“Automobile racetrack facility” means a sanctioned automobile racetrack facility located as part of a racetrack and entertainment complex, including any museum attached to or included in the racetrack facility, but excluding any restaurant, and which facility is located, on a maximum of 232 acres, in a city with a population of at least 14,500 but not more than 16,500 residents, which city is located in a county

with a population of at least 35,000, but not more than 40,000 residents, and where the construction on the racetrack facility commenced not later than one year following July 1, 2005, and the cost of the construction upon completion was at least \$35 million.

“Change of control” means any of the following:

1. Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the automobile racetrack facility such that at least 60 percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

2. The original owners of the legal entity that is the owner or operator of the automobile racetrack facility shall collectively cease to own more than 50 percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

“Iowa corporation” means a corporation incorporated under the laws of Iowa where at least 60 percent of the corporation’s equity interests are owned by individuals who are residents of Iowa.

“Owner or operator” means a for-profit legal entity where at least 60 percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of an automobile racetrack facility and is primarily a promoter of motor vehicle races.

“Population” means the population based upon the 2000 certified federal census.

**235.1(2) Affidavit by owner or operator.** The owner or operator of an automobile racetrack facility seeking a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, or services furnished to purchasers at the automobile racetrack facility must file with the department the following affidavit certifying that qualifications for the rebate have been met:

Iowa Department of Revenue  
Sales Tax Rebate Affidavit

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NAME OF AFFIANT	}	AFFIDAVIT FOR SANCTIONED AUTOMOBILE RACETRACK FACILITY
ADDRESS OF AFFIANT		

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The undersigned duly swears that the named Automobile Racetrack Facility complies with criteria to be entitled to rebate of sales tax as required in Iowa Code section 423.4 as follows:

- a. The facility is sanctioned as an automobile racetrack facility;
- b. The sanctioned automobile racetrack facility is located as part of a racetrack and entertainment complex, including any museum attached to or included in the sanctioned automobile racetrack facility, but excluding any restaurant;
- c. The sanctioned automobile racetrack facility has not and will not receive any grants under the community attraction and tourism program pursuant to Iowa Code chapter 15F, subchapter II, or the vision Iowa program pursuant to Iowa Code chapter 15F, subchapter III;
- d. The sanctioned automobile racetrack facility is located on a maximum of 232 acres of Iowa land;
- e. The sanctioned automobile racetrack facility is located in a city with a population, as defined by this rule, of at least 14,500, but not more than 16,500;

REVENUE DEPARTMENT[701](cont'd)

- f. The city in which the sanctioned automobile racetrack facility is located is in a county with a population, as defined by this rule, of at least 35,000, but no more than 40,000;
- g. Construction of the sanctioned automobile racetrack facility was commenced on or before July 1, 2006;
- h. Cost of construction of the automobile racetrack facility upon completion is at least \$35 million; and
- i. There has not been a "change of control" as defined in the rules governing this program regarding the legal ownership or operation of the automobile racetrack facility.

The undersigned duly swears that he or she is the owner or operator of the sanctioned automobile racetrack facility or that the undersigned is the authorized representative of the sanctioned automobile racetrack facility and has the authority to sign this document. The undersigned swears that he or she has personal knowledge regarding the facts contained in this affidavit and that the statements set forth in this affidavit are true and accurate and that the sanctioned automobile racetrack facility has met all of the requirements as contained herein.

Name of Affiant	Date
Position of Affiant	

**235.1(3)** Notification to the department of revenue. The owner or operator of the automobile racetrack facility will provide the department with the identity of all retailers at the automobile racetrack facility that will be collecting sales tax and are required to keep the information current. The owner or operator of the automobile racetrack facility will notify the department within ten days of the termination of a retailer from collecting sales tax at the racetrack facility. In addition, the owner or operator of the automobile racetrack facility will notify the department within ten days of the startup of a retailer collecting sales tax at the automobile racetrack facility.

**235.1(4)** Limitations. The automobile racetrack facility rebate program applies only to transactions which occur on or after January 1, 2006, but before January 1, 2016, and for which sales tax was collected. Only the state sales tax is subject to rebate. Local option taxes paid and collected are not subject to rebate. Rebates of sales taxes to an automobile racetrack facility are not authorized for transactions which occur on or after the date of the sale or other transfer, whether voluntary or involuntary, of the automobile racetrack facility to a party other than the original owner of the facility or upon a change of control of such facility.

**235.1(5)** Termination of rebate program. The rebate program for automobile racetrack facilities is a pilot program which terminates on the earliest of the following dates:

- a. June 30, 2016; or
- b. Thirty days following the date on which \$12,500,000 in total rebates have been provided; or
- c. Thirty days following the date of the sale or other transfer, whether voluntary or involuntary, of the automobile racetrack facility to a party other than the original owner of the facility or upon a change of control of such facility.

**235.1(6)** Sourcing of sales. Advance ticket and admissions sales shall be considered occurring at the automobile racetrack facility regardless of where the transactions actually occur. Consequently, the state sales tax and any applicable local option tax in effect for the jurisdiction in which the automobile racetrack facility is located must be imposed.

Other types of sales eligible for rebate under this program include, but are not limited to, sales by vendors and sales at concessions, gift shops and museums. However, sales by a restaurant on facility land are not subject to rebate.

**235.1(7)** Requirements to obtain a rebate of state sales tax by the racetrack facility:

- a. The rebate request must be submitted to the department on the authorized department form;
- b. The rebate request form must be filed with the department in a timely manner, with the filing requirement being quarterly; and
- c. All the information requested on the rebate request form must be completed.

This rule is intended to implement Iowa Code Supplement section 423.4(5) and 2005 Iowa Acts, chapter 110.

## NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for January is 6.50%.

### INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants . . . . . Maximum 6.0%
- 74A.4 Special Assessments . . . . . Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective January 11, 2006, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

### TIME DEPOSITS

- 7-31 days . . . . . Minimum 1.65%
- 32-89 days . . . . . Minimum 2.30%
- 90-179 days . . . . . Minimum 2.75%
- 180-364 days . . . . . Minimum 3.05%
- One year to 397 days . . . . . Minimum 3.30%
- More than 397 days . . . . . Minimum 4.35%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

**ARC 4821B****ADMINISTRATIVE SERVICES  
DEPARTMENT[11]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 8A.104, the Department of Administrative Services hereby adopts new Chapter 20, "Information Technology Governance," and amends Chapter 25, "Information Technology Operational Standards," and Chapter 105, "Procurement of Goods and Services of General Use," Iowa Administrative Code.

The purpose of this new chapter and the amendments to Chapters 25 and 105 is to implement 2005 Iowa Acts, House File 839, signed by the Governor on April 29, 2005. House File 839 establishes the Technology Governance Board in place of the Information Technology Council. New Chapter 20 sets forth the operations of the Technology Governance Board. Establishment of the Board also requires the Department to revise its process for developing and approving enterprise information technology operational standards and the process for agencies to obtain approval of major information technology procurements.

The Technology Governance Board established within the Department of Administrative Services will formally require state agencies to focus on a business perspective regarding the deployment of information technology across state government. The primary benefit of the Board will be more effective management of the state's information technology resources by taking a coordinated, enterprise approach. The Board is responsible for:

- Working with the Department to prepare budgets and manage the funds made available for information technology,
- Preparing an annual report for the legislature on information technology spending and savings,
- Developing and approving administrative rules for the Department governing the activities of the Board,
- Developing and adopting enterprise information technology standards,
- Approving major information technology-related request for proposals (RFP) procurements for participating agencies,
- Reviewing and approving the recommendations of the Iowa Access Advisory Council regarding rates to be charged for access to and for value-added services performed through Iowa Access,
- Establishing appropriate advisory groups, and
- Making recommendations to the Department on services and technology initiatives for the executive branch.

The Board includes the Director of the Department of Administrative Services as the permanent chair; the Director of the Department of Management, or the Director's designee, as a permanent member; six state agency representatives, preferably a director, deputy director, or chief financial officer (three representatives from large agencies, two from medium-sized agencies and one from a small agency); and two public members. Members of the Board are appointed by the Governor and serve staggered two-year terms. The public members are subject to Senate confirmation.

These amendments were published under Notice of Intended Action in the November 23, 2005, Iowa Administrative Bulletin as **ARC 4691B**. Minor editorial changes have been made referring to the Board's review and approval of requests for proposals in Chapters 20 and 105 and referring to

Department rather than Board in Chapter 105 for other technology procurements.

No public comments were received. A public hearing was held on December 13, 2005, at 11 a.m. in the Administrative Services Conference Room 04, Hoover State Office Building, Level A-South, at which time no comments were received.

These amendments are intended to implement 2005 Iowa Acts, chapter 90.

These amendments will become effective February 22, 2006.

The following amendments are adopted.

ITEM 1. Adopt the following **new** chapter:

**CHAPTER 20  
INFORMATION TECHNOLOGY GOVERNANCE**

**11—20.1(81GA,ch90) General provisions.**

**20.1(1) Establishment.** The technology governance board is established within the department of administrative services by 2005 Iowa Acts, chapter 90.

**20.1(2) Mission.** The mission of the technology governance board is to set priorities for statewide technology investments and initiatives and to assist the department of management and the state's chief information officer in developing a statewide information technology budget. The budget shall reflect the total information technology spending of the executive branch, resulting in better decision making and financial investment performance reporting.

**11—20.2(81GA,ch90) Definitions.** For the purpose of this chapter, the following definitions apply:

"Agency" or "state agency" means a participating agency as defined in Iowa Code section 8A.201.

"Board" means the technology governance board.

"Department" means the department of administrative services, including the information technology enterprise.

"Director" means the director of the department of administrative services.

"Iowa Access advisory council" means the council established pursuant to Iowa Code section 8A.221.

"Large agency" means a state agency with more than 700 full-time, year-round employees.

"Medium-sized agency" means a state agency with 70 or more full-time, year-round employees, but not more than 700 full-time, year-round employees.

"Small agency" means a state agency with less than 70 full-time, year-round employees.

**11—20.3(81GA,ch90) Membership of the board.**

**20.3(1) Composition.** The technology governance board is composed of ten members as follows:

- a. The director.
- b. The director of the department of management, or the designee of the director of the department of management.
- c. Eight members appointed by the governor as follows:
  - (1) Three representatives from large agencies.
  - (2) Two representatives from medium-sized agencies.
  - (3) One representative from a small agency.
  - (4) Two public members who are knowledgeable and have experience in information technology matters.
- d. A director, deputy director, chief financial officer or the equivalent is preferred as an appointed representative for each of the agency categories of membership pursuant to paragraph "c."

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

e. Appointments of public members to the board are subject to Iowa Code sections 69.16 and 69.16A governing balance in political affiliation and gender of members of appointed boards.

**20.3(2)** Length of term. Members appointed to the board pursuant to paragraph 20.3(1)“c” shall serve two-year fixed terms.

a. Initial member terms. In order to stagger terms of board members so that one-half of the terms expire each year, four of the eight members appointed by the governor shall serve initial terms of no longer than one year. Designation of which members are appointed to the initial staggered terms shall be at the discretion of the governor.

b. Agency member terms. Terms of the agency members appointed pursuant to paragraph 20.3(1)“c” shall expire on April 30 of the last year of the member’s term. New terms shall begin on May 1.

c. Public member terms. The public members of the board are subject to Iowa Code section 69.19, requiring senate confirmation and terms that expire on April 30 of the year of term expiration. New terms of the public members shall begin on May 1.

**11—20.4(81GA,ch90) Compensation of members.**

**20.4(1)** A member shall be reimbursed for actual and necessary expenses incurred in performance of the member’s duties.

**20.4(2)** Public members appointed by the governor may be eligible to receive compensation as provided in Iowa Code section 7E.6.

**11—20.5(81GA,ch90) Officers of the board.**

**20.5(1)** The director shall serve as the permanent chair of the board.

**20.5(2)** The technology governance board annually shall elect a vice chair from among the members of the board, by majority vote, to serve a one-year term.

**11—20.6(81GA,ch90) Meetings of the board.**

**20.6(1)** Meetings of the board shall be held at the call of the chairperson or at the request of three members. However, the board shall meet no less than monthly for the one-year period following the appointment of all members.

**20.6(2)** A majority of the members of the board shall constitute a quorum.

**20.6(3)** Meetings of the board are subject to the open meetings provisions of Iowa Code section 21.3.

**11—20.7(81GA,ch90) Correspondence and communications.**

The office of the technology governance board is maintained in the office of the department of administrative services. Correspondence and communications to the board shall be directed in care of the Iowa Department of Administrative Services, Information Technology Enterprise, Hoover State Office Building, Level B, Des Moines, Iowa 50319.

**11—20.8(81GA,ch90) Powers and duties of the board.**

**20.8(1)** Spending and savings report. On an annual basis, the board shall prepare a report to the governor, the department of management, and the general assembly regarding the total spending on technology for the previous fiscal year, the total amount appropriated for the current fiscal year, and an estimate of the amount to be requested for the succeeding fiscal year for all agencies. The report shall include a five-year projection of technology cost savings, an accounting of the level of technology cost savings for the current fiscal year, and a comparison of the level of technology cost savings for the current fiscal year with that of the previous fiscal year. This report shall be filed as soon as possible after

the close of a fiscal year, and by no later than the second Monday of January of each year.

**20.8(2)** Budget and accounts. The board shall work with the department of management and the state accounting enterprise of the department, pursuant to Iowa Code section 8A.502, to maintain the relevancy of the central budget and proprietary control accounts of the general fund of the state and special funds to information technology, as those terms are defined in Iowa Code section 8.2.

**20.8(3)** Rules. The board shall develop and approve administrative rules governing the activities of the board to be adopted under the department’s name.

**20.8(4)** Standards. In conjunction with the department, the board shall develop and adopt standards with respect to procurement of information technology that shall be applicable to all agencies.

**20.8(5)** Service and initiative recommendations. The board shall make recommendations to the department regarding all of the following:

a. Technology utility services to be implemented by the department or other agencies.

b. Improvements to information technology service levels and modifications to the business continuity plan for information technology operations developed by the department pursuant to Iowa Code section 8A.202 for agencies, and to maximize the value of information technology investments by the state.

c. Information technology initiatives for the executive branch.

**20.8(6)** Fees for electronic access. The board shall review fee proposals for value-added services from state agencies and other governmental entities that have been recommended to the board by the lowAccess advisory council and shall submit decisions regarding such fees approved by the board to the department of management. In establishing the fees for value-added services, the board shall consider the reasonable cost of creating and organizing government information into a gateway for one-stop electronic access to government information and transactions, whether federal, state, or local.

**20.8(7)** Advisory groups. The board shall designate advisory groups as appropriate to assist the board in all of the following:

a. Development and adoption of an executive branch strategic technology plan.

b. Annual review of technology operating expenses and capital investment budgets of agencies by October 1 for the following fiscal year, and development of technology costs savings projections, accountings, and comparison.

c. Quarterly review of requested modifications to information technology budgets of agencies due to funding changes.

d. Review and approval of all requests for proposals having an information technology component prior to issuance for all information technology devices, hardware acquisitions, information technology services, software development projects, and information technology outsourcing for agencies that exceed the greater of a total cost of \$50,000 or a total involvement of 750 agency staff hours.

e. Development of a plan and process to improve service levels and continuity of business operations, and to maximize the value of information technology investments.

f. Formation of internal teams to address cost-savings initiatives, including consolidation of information technology and related functions among agencies, as enacted by the technology governance board.

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

g. Development of information technology standards.  
 h. Development of rules, processes, and procedures for implementation of aggregate purchasing among agencies.  
 These rules are intended to implement 2005 Iowa Acts, chapter 90.

ITEM 2. Amend rule 11—25.1(8A) as follows:

Amend the definition of “operational standards” as follows:

“Operational standards” means information technology standards, including *but not limited to* system design, system integration, ~~and specifications, requirements, processes or initiatives that foster compatibility,~~ interoperability, ~~but not including procurement standards connectivity, and use of information technology devices and services among participating agencies.~~ *Operational standards specify:*

1. *The performance that is required to be acceptable in accordance with specific operational criteria.*
2. *The technological features with which information technology products or services must comply to ensure compatibility, interoperability or connectivity among state agencies.*

Amend the definition of “participating agency,” numbered paragraph “6,” as follows:

6. The Iowa lottery authority.

Add the following **new** definition:

“Technology governance board” means the board established by 2005 Iowa Acts, chapter 90, section 3.

ITEM 3. Amend subrule 25.2(1) as follows:

**25.2(1)** The department is required to develop, in consultation with the ~~information technology council as established in 2003 Iowa Code Supplement section 8A.204~~ *technology governance board*, and implement information technology ~~and operational~~ standards through a process as set forth in this chapter. It is the intent of the general assembly that information technology standards be established for the purpose of guiding the procurement of information technology by all participating agencies.

ITEM 4. Amend rule 11—25.5(8A) as follows:

**11—25.5(8A) Development of operational standards.**

**25.5(1)** Recommendation of operational standards. ~~The director is charged with recommending standards. The department and the technology governance board shall develop recommended information technology operational standards that shall be subject to consideration through the public input process established pursuant to rule 25.7(8A).~~

**25.5(2)** Implementation of operational standards. The department ~~and the technology governance board shall implement jointly approve~~ information technology standards which are applicable to information technology operations by participating agencies, including but not limited to system design and systems integration and interoperability pursuant to ~~2003 Iowa Code Supplement section 8A.202. The director is charged with prescribing and adopting information technology operational standards.~~

**25.5(3)** Effective date of operational standards.—Operational standards are effective upon 24 hours of final posting ~~unless otherwise specified.~~ Requirement for operational standards. Operational standards shall be developed regarding information technology issues that affect multiple participating agencies. Examples of situations where establishing an operational standard would result in potential advantage to the state include, but are not limited to:

- a. Promoting knowledge transfer and reducing learning curves for new technology solutions,

b. Protecting and securing the state’s information technology infrastructure and data,

c. Reducing the resources applied to technology solutions,

d. Streamlining the state’s common information technology systems and infrastructure,

e. Streamlining the delivery of information or services by promoting consistency in the handling, collection, transport, or storage of data and information, or

f. Promoting potential short- or long-term cost savings or cost avoidance.

**25.5(4)** Basis for operational standards. Operational standards may be based on any of the following:

a. Best practice guidelines. Standards based on best practice guidelines means that a case study or analysis is used to provide a benchmark for good business and information technology practices in achieving a desired result. The analysis or case study highlights one or several proposed products, technology fields, analytical methodologies or information technology solutions which constitute a good approach for other entities pursuing similar solutions. Best practice guidelines are intended to:

(1) Be informational,

(2) Facilitate knowledge transfer, and

(3) Shorten the learning curve for other entities addressing common technology issues.

b. Policy. Standards based on policy means that the operational standards are based on a description of required or prohibited courses of action or behavior with respect to the acquisition, deployment, implementation, or use of information technology resources.

c. Procedure. Standards based on procedure means that the operational standards are based on a set of administrative instructions for implementation of a policy or standards specifications.

d. Standards specifications. Standards based on specifications means that the operational standards are based on a description of specific required technical approaches, solutions, methodologies, products or protocols which must be adhered to in the design, development, implementation or upgrade of systems architecture, including hardware, software and services, and a description of those prohibited. Standards are intended to establish uniformity in common technology infrastructures, applications, processes or data. Standards may be developed as a subset of, and within the context of, a broader technology policy. Standards may define or limit the tools, proprietary product offerings or technical solutions which may be used, developed or deployed by state government entities subject to compliance with the operational standards specifications.

**25.5(5)** Goals for information technology standards. The underlying purpose of operational standards involving information technology shall be one or more of the following:

a. To promote consistency in the automation of the state’s common infrastructure systems;

b. To eliminate duplicative development efforts by multiple state government entities;

c. To ensure continuity of ongoing state operations;

d. To promote administrative efficiencies relating to development and maintenance of common data; and

e. To enable the state to realize its full purchasing power from the use of a statewide, enterprise approach to the selection of technology solutions.

**25.5(6)** Evaluating compliance with operational standards. In evaluating compliance with operational standards,

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

*the technology governance board shall consider the following criteria:*

*a. Current technology. A proposed technology solution should be consistent with the statewide technology direction.*

*(1) A proposed technology solution should promote the goals set forth in subrule 25.5(5).*

*(2) A proposed technology solution should be current and reflect industry trends or best practice guidelines.*

*(3) A proposed technology solution should offer potential for a long life cycle, minimizing the risk of technological obsolescence.*

*b. Existing technology deployments. When state government entities have already made an investment in the proposed technology solution, the following issues shall be considered:*

*(1) The size and scope of existing deployments of the technology solution among state government entities (the installed base).*

*(2) Current fiscal investment associated with the installed base.*

*(3) Acquisition, development and deployment time frames associated with developing the installed base.*

*c. Maintenance of ongoing business operations. The proposed technology solution should enhance the ability of state government entities to maintain ongoing business operations.*

*d. Impact on state resources. Considerations regarding state resources include the following:*

*(1) Administrative and fiscal resources required to implement the proposed technology solution.*

*(2) Deployment time frame to implement the proposed technology solution.*

*(3) The potential for cost savings or cost avoidance.*

*25.5(7) Effective date of operational standards. Operational standards are effective 24 hours after the time of final posting unless otherwise specified.*

ITEM 5. Amend rule 11—25.7(8A) as follows:

**11—25.7(8A) Review of operational standards by the public and period of public comment.**

**25.7(1)** Interested members of the public may participate in the process of establishing standards by providing written comments to the ~~Administrator~~ *Enterprise IT Standards Coordinator, Information Technology Enterprise Department of Administrative Services, Legal, Rules and Planning, Hoover State Office Building, Level B A, Des Moines, Iowa 50319.* Comments will be accepted for a period of ten days after the initial posting of the standard by the department on the department's Web site at <http://das.ite.iowa.gov/standards/index.html>.

**25.7(2)** Interested members of the public may inquire about standards currently being considered for recommendation by the director by telephoning the ~~information technology enterprise administrator~~ *IT standards coordinator* at (515)281-5503 6904; in writing to ~~Information Technology Enterprise Department of Administrative Services, Legal, Rules and Planning, Hoover State Office Building, Level B A, Des Moines, Iowa 50319;~~ or by accessing the department's Web site at <http://das.ite.iowa.gov/standards/index.html>.

ITEM 6. Amend rule **11—105.2(8A)** as follows:

Add the following **new** definition in alphabetical order:

"Board" means the technology governance board established by 2005 Iowa Acts, chapter 90, section 3.

Amend the following definitions:

"Material modification" relating to an approved IT procurement means a change in the procurement of 10 percent or ~~\$25,000~~ \$50,000, whichever is ~~more~~ less, or a change of sufficient importance or relevance so as to have possible significant influence on the outcome.

"Participating agency," *applicable only to information technology purchases*, means any agency other than:

1. ~~The~~ the state board of regents and institutions operated under its authority;

2. ~~The~~ the public broadcasting division of the department of education;

3. ~~The~~ the department of transportation's mobile radio network;

4. ~~The~~ the department of public safety law enforcement communications systems and capitol complex security systems in use for the legislative branch; and

5. ~~The~~ the Iowa telecommunications and technology commission, with respect to information technology that is unique to the Iowa communications network;

6. ~~The~~ Iowa lottery authority; and

7. ~~A judicial district department of correctional services established pursuant to Iowa Code section 905.2 and is applicable only to information technology purchases.~~

ITEM 7. Amend rule 11—105.10(8A) as follows:

**11—105.10(8A) Procurement of information technology devices and services.** This rule applies to the procurement of information technology devices and services by participating agencies.

**105.10(1)** Approval of participating agency information technology procurements.

a. All procurement of information technology devices and services must meet operational standards prescribed by the department.

b. ~~Procurement~~ *With the exception of requests for proposals (RFPs) which are approved by the technology governance board, procurement of all information technology devices and services, projects and outsourcing of \$50,000 or more or a total involvement of 750 participating agency staff hours or more must receive prior approval from the department of administrative services, information technology enterprise (DAS/ITE), before a participating agency issues a competitive selection document or any other procurement document or otherwise seeks to procure information technology devices or services or both through the department or on its own purchasing authority. The participating agency's approval request shall be in a form prescribed by the department.*

c. ~~DAS/ITE shall implement a postaudit review of information technology procurements of up to \$50,000 per claim~~ *Participating agencies shall notify the technology governance board in writing on a quarterly basis that technology purchases made during the previous quarter were in compliance with the technology governance board's procurement rules and information technology operational standards.*

d. Participating agencies shall not break purchasing into smaller increments for the purpose of avoiding threshold requirements of this subrule.

**105.10(2)** Review process for proposed procurements.

a. ~~The~~ *With the exception of requests for proposals (RFPs) which are approved by the technology governance board, the department shall review a proposed information technology procurement of a participating agency regardless of funding source, method of procurement, or agency procurement authority.*

## ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

b. The department shall review a proposed procurement for compliance with operational standards established by the department.

c. Once a procurement is approved, ongoing approval by the department is not required provided that the procurement or scope of work remains consistent with the previously approved procurement or scope of work.

d. Participating agencies shall obtain the department's approval anytime a material modification of the procurement or the scope of work is completed. Review and approval by the department is required prior to ~~implementing~~ *implementation of* a material modification to a previously approved proposed procurement by a participating agency or by the department on behalf of a participating agency.

e. ~~After approved procurements are~~ *approval of the procurement is* forwarded to the agency contact person and appropriate procurement authority contacts, the procurement may proceed.

f. When a procurement is not approved, the agency contact will be notified of available options, which include modification and resubmission of the request, cancellation of the request, or requesting a waiver from the director *on the recommendation of the technology governance board* pursuant to subrule 105.10(3).

g. The department ~~shall~~ *may* periodically audit procurements made by a participating agency for compliance with this rule and operational standards of the department. When the audit determines that inconsistencies with established operational standards or *with* this rule exist, the participating agency shall comply with ~~DAS~~ *technology governance board* directives to remedy the noncompliance and ~~shall submit all procurements and modifications of previously approved procurement requests to the department for approval for a term determined by the department.~~

h. Information technology devices and services not complying with applicable operational standards shall not be procured by any participating agency unless a waiver is granted by the director *on the recommendation of the technology governance board*.

i. Upon request by a participating agency, the department may procure, as provided by these rules, any information technology devices or information technology services requested by or on behalf of an agency and accordingly bill the agency through the department's regular process for the information technology devices or information technology services or for the use of such devices or services.

j. The department may provide pertinent advice to a procurement authority or participating agency regarding the procurement of information technology devices or services, including opportunities for aggregation with other procurements.

k. The department shall establish and maintain a Web page (<http://www.iowa.gov/government/ite/standards/enterprise-it/itprocurement.html>) (<http://das.ite.iowa.gov/standards/enterprise-it/index.html>) of current operational standards for information technology devices and services. The Web page shall be updated from time to time with additions, deletions and modifications.

**105.10(3)** Waiver requests for operational standards.

a. Waiver requests. In the event a participating agency is advised that its proposed procurement is disapproved and the participating agency seeks a waiver of operational standards, it must file its written waiver request with the department within five calendar days of the date of the disapproval. The waiver request shall be filed pursuant to ~~11—Chapter 9 rule 11—25.6(8A).~~

b. Hearing. The department may conduct a hearing with the participating agency regarding the waiver request. Additional evidence may be offered at the time of the hearing. Oral proceedings shall be recorded either by mechanized means or by a certified shorthand reporter. Parties requesting that the hearing be recorded by a certified shorthand reporter shall bear the costs. Copies of tapes of oral proceedings or transcripts recorded by certified shorthand reporters shall be paid for by the requester.

c. Burden of proof. The burden of proof is on the participating agency to show that good cause exists to grant a waiver to the participating agency to complete the proposed procurement.

d. The director shall notify the participating agency in writing of the decision to grant or deny the waiver. In the event a waiver is denied, the participating ~~new~~ agency may appeal pursuant to Iowa Code section 679A.19.

[Filed 12/29/05, effective 2/22/06]

[Published 1/18/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/06.

**ARC 4834B****CREDIT UNION DIVISION[189]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 533.54, the Credit Union Review Board hereby amends Chapter 24, "Electronic Transfer of Funds," Iowa Administrative Code.

Chapter 24 contains rules regarding the operation or control of a satellite terminal and pertaining to a financial transaction engaged in through a satellite terminal. These amendments pertain to approval of satellite terminals and to customer instruction in the use of terminals.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 23, 2005, as **ARC 4672B**. No comments were received. These amendments are identical to those published under Notice.

These amendments were adopted by the Board on December 28, 2005.

These amendments shall become effective February 22, 2006.

These amendments are intended to implement Iowa Code chapter 527.

The following amendments are adopted.

ITEM 1. Amend subrule 24.5(1) to read as follows:

**24.5(1)** Approval required. A satellite terminal shall not be established or operated in the state of Iowa unless written approval for that establishment and operation has been obtained from the administrator. *Exceptions to this requirement may exist based upon judicial rulings on applicability of Iowa Code subsections 527.5(3) and 527.5(7) to certain federally chartered financial institutions.*

ITEM 2. Amend rule 189—24.6(527) to read as follows:

**189—24.6(527) Advertising at satellite terminals** *Customer instruction in the use of a satellite terminal.*

**24.6(1)** Scope. A satellite terminal as defined by Iowa Code section 527.2 includes terminals located on the premises of a financial institution, as well as all terminals located off the premises of a financial institution. For purposes of ad-

## CREDIT UNION DIVISION[189](cont'd)

vertising, however, only satellite terminals located off the premises of the establishing financial institution are governed by the restrictions contained in these rules.

**24.6(2)** Advertising at satellite terminal locations. The term "satellite terminal location," as used in Iowa Code subsection 527.5(5), means all physical space within 100 feet in any direction of the satellite terminal. Advertising identifying the establishing financial institution may be displayed at any location outside this area as defined; however, any physical structure which encompasses a satellite terminal location, except a branch facility of the establishing financial institution, is also prohibited from displaying advertising identifying the establishing financial institution.

**24.6(3)** Other forms of advertising. The establishing financial institution is permitted to advertise its establishment of off-premises satellite terminals in newspaper, radio, television, or other media, as long as such advertising does not appear or is not broadcast at the satellite terminal location or anywhere in or upon the physical structure encompassing the satellite terminal.

**24.6(4)** Satellite terminal use instructions. Iowa Code subsection 527.5(4) prohibits employees of the establishing financial institution or affiliate from attending or operating a satellite terminal except on a temporary basis for the purpose of instructing customers in the proper use of the satellite terminal. For purposes of these rules *this rule*, such temporary basis shall be defined to be no more than 30 calendar days from the date of initial operation of the satellite terminal. Satellite terminals located on the premises of the establishing financial institution are exempt from this restriction.

This rule is intended to implement Iowa Code subsections *subsection 527.5(4) and 527.5(5)*.

[Filed 12/30/05, effective 2/22/06]  
[Published 1/18/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/06.

**ARC 4814B****HUMAN SERVICES  
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 514I.5, the Department of Human Services amends Chapter 86, "Healthy and Well Kids in Iowa (HAWK-I) Program," Iowa Administrative Code.

Rules for the HAWK-I program are revised to:

- Reference the electronic application form and the electronic referral process for families that initially applied for Medicaid but were ineligible, or were canceled from Medicaid.
- Clarify the relationship between applications for Medicaid and applications for HAWK-I assistance. Each is recognized by the other program if the family's circumstances warrant. No additional application form, and in most cases, no additional investigation, is required.
- Provide that a child voluntarily excluded from the Medicaid eligible group for any financial reason may qualify for HAWK-I.
- Clarify billing and payment requirements for HAWK-I premiums to allow that payment is timely if it is

postmarked by the due date and to allow families one ten-day extension of the initial premium due date.

- Implement health insurance data matching for HAWK-I cases, as is currently done for Medicaid cases.

These amendments do not provide for waivers in specified situations because they either confer a benefit on HAWK-I customers or are required by state law. Individuals may request a waiver of these rules under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on September 14, 2005, as **ARC 4486B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The HAWK-I Board adopted these amendments on December 19, 2005.

These amendments are intended to implement Iowa Code section 514I.5(7)"f" and 2005 Iowa Acts, chapter 175, section 9, subsection 7.

These amendments shall become effective on March 1, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [86.2(2), 86.2(5), 86.3(6)"a," 86.4(1)"a" and "c," 86.4(3), 86.4(4), 86.8(3), 86.18] is being omitted. These amendments are identical to those published under Notice as **ARC 4486B**, IAB 9/14/05.

[Filed 12/22/05, effective 3/1/06]  
[Published 1/18/06]

[For replacement pages for IAC, see IAC Supplement 1/18/06.]

**ARC 4826B****NATURAL RESOURCE  
COMMISSION[571]****Adopted and Filed**

Pursuant to the authority of Iowa Code subsection 455A.5(6), the Natural Resource Commission hereby rescinds Chapter 17, "Barge Fleeting Regulations," Iowa Administrative Code, and adopts new Chapter 17 with the same title.

This new chapter clarifies application and appeal procedures, barge fleeting operation standards, and restrictions and prohibitions on locating fleeting areas and provides necessary definitions. Procedures for determining lease fees are substantially revised, new lease fees are established, and future fee adjustment is provided for.

Notice of Intended Action was published in the Iowa Administrative Bulletin on June 8, 2005, as **ARC 4242B**. No written comments regarding the rules were received. At the public hearing on June 30, 2005, no comments regarding the rules were received.

The final rules are unchanged from the Notice of Intended Action.

These rules are intended to implement Iowa Code sections 461A.4, 461A.11, 461A.18, 461A.25 and 461A.32.

These rules shall become effective February 22, 2006.

NATURAL RESOURCE COMMISSION[571](cont'd)

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 17] is being omitted. These rules are identical to those published under Notice as **ARC 4242B**, IAB 6/8/05.

[Filed 12/29/05, effective 2/22/06]  
[Published 1/18/06]

[For replacement pages for IAC, see IAC Supplement 1/18/06.]

## ARC 4811B

### PROFESSIONAL LICENSURE DIVISION[645]

#### Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Athletic Training Examiners hereby amends Chapter 351, "Licensure of Athletic Trainers," Chapter 353, "Discipline for Athletic Trainers," and Chapter 354, "Fees," Iowa Administrative Code.

These amendments allow a licensee who renews within six months of a new licensing cycle to wait until the subsequent renewal period to renew the license, require proof of licensure from every state in which an applicant was previously licensed, and adopt a new fees rule that increases fees to fund changes to an antiquated software system and provide other services for licensees such as online renewals. The Board prenoticed the fees rule to provide licensees and the public an opportunity to comment on the proposed rule. The Board did not receive any comments during the prenotice period.

Notice of Intended Action was published in the Iowa Administrative Bulletin on October 12, 2005, as **ARC 4560B**. A public hearing was held on November 3, 2005, from 10 to 10:30 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building. One comment was received noting that in the discipline chapter there was a reference to lapsed license status that no longer exists. The Board corrected the discipline rules by removing the reference to a lapsed license.

The amendments were adopted by the Board of Athletic Training Examiners on December 20, 2005.

These amendments will become effective February 22, 2006.

These amendments are intended to implement Iowa Code chapters 21, 147, 152D and 272C.

The following amendments are adopted.

ITEM 1. Amend subrule 351.9(2) as follows:

**351.9(2)** An individual who was issued an ~~initial~~ license within six months of the license renewal date will not be required to renew the license until the subsequent renewal two years later.

ITEM 2. Amend subrule 353.2(27) as follows:

**353.2(27)** Representing oneself as a licensed athletic trainer when one's license has been suspended or revoked, or when one's license is ~~lapsed or has been placed~~ on inactive status.

ITEM 3. Rescind rule 645—354.1(147,152D) and adopt the following new rule in lieu thereof:

**645—354.1(147,152D) License fees.** All fees are nonrefundable.

**354.1(1)** Licensure fee for license to practice athletic training is \$120.

**354.1(2)** Temporary licensure fee for license to practice athletic training is \$120.

**354.1(3)** Biennial license renewal fee for each biennium is \$120.

**354.1(4)** Late fee for failure to renew before expiration is \$60.

**354.1(5)** Reactivation fee is \$180.

**354.1(6)** Duplicate or reissued license certificate or wallet card fee is \$20.

**354.1(7)** Verification of license fee is \$20.

**354.1(8)** Returned check fee is \$25.

**354.1(9)** Disciplinary hearing fee is a maximum of \$75. This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

[Filed 12/20/05, effective 2/22/06]  
[Published 1/18/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/06.

## ARC 4809B

### REAL ESTATE COMMISSION[193E]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 543B.9 and 543B.18, the Real Estate Commission hereby amends Chapter 7, "Offices and Management," Iowa Administrative Code.

New subrule 7.4(8) is added to clarify that the prohibition provided by Iowa Code section 543B.60A includes persons who are not licensed in Iowa but who are licensed in another state or who are licensed or otherwise authorized to engage in the real estate business in a foreign country.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 4584B** on October 26, 2005. A public hearing was held on November 15, 2005. One person attended the hearing and supported the amendment. No written comments were received. This amendment is identical to that published under Notice of Intended Action.

The Real Estate Commission adopted this amendment on December 14, 2005.

This amendment will become effective February 22, 2006.

This amendment is intended to implement Iowa Code sections 543B.9 and 543B.18.

The following amendment is adopted.

Amend rule 193E—7.4(543B) by adopting the following new subrule:

**7.4(8)** Any arrangement prohibited by Iowa Code section 543B.60A. An Iowa licensee is prohibited from participating in any such marketing plan with a person who is licensed or otherwise authorized to engage in the real estate business in another state or foreign country.

[Filed 12/16/05, effective 2/22/06]  
[Published 1/18/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/06.

**ARC 4831B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby amends Chapter 10, "Interest, Penalty, Exceptions to Penalty, and Jeopardy Assessments," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVIII, No. 11, p. 854, on November 23, 2005, as **ARC 4680B**.

Iowa Code section 421.7 requires the Director of Revenue to determine the interest rate for each calendar year. The Director has determined that the rate of interest on interest-bearing taxes arising under Iowa Code Title XVI shall be 8 percent for the calendar year 2006 (0.7 percent per month). The Department will also pay interest at the 8 percent rate on refunds.

This amendment is identical to that published under Notice of Intended Action.

This amendment will become effective February 22, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

This amendment is intended to implement Iowa Code section 421.7.

The following amendment is adopted.

Amend rule 701—10.2(421) by adding the following **new** subrule:

**10.2(25)** Calendar year 2006. The interest rate upon all unpaid taxes which are due as of January 1, 2006, will be 8 percent per annum (0.7% per month). This interest rate will accrue on taxes which are due and unpaid as of, or after, January 1, 2006. In addition, this interest will accrue on tax refunds which by law accrue interest, regardless of whether the tax to be refunded is due before or after January 1, 2006. This interest rate of 8 percent per annum, whether for unpaid taxes or tax refunds, will commence to accrue in 2006.

[Filed 12/30/05, effective 2/22/06]

[Published 1/18/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 1/18/06.

**ARC 4830B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVIII; No. 11, p. 854, on November 23, 2005, as **ARC 4682B**.

Item 1 adopts new rule 701—42.24(15I,422), which provides for a wage-benefits tax credit for individual income tax.

Item 2 adopts new rule 701—52.25(15I,422), which provides for a wage-benefits tax credit for corporation income tax.

Item 3 adopts new rule 701—58.14(15I,422), which provides for a wage-benefits tax credit for franchise tax.

These rules are identical to those published under Notice of Intended Action.

These rules will become effective February 22, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These rules are intended to implement Iowa Code Supplement chapter 15I and Iowa Code Supplement sections 422.11L, 422.33(18), and 422.60(10).

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [42.24, 52.25, 58.14] is being omitted. These rules are identical to those published under Notice as **ARC 4682B**, IAB 11/23/05.

[Filed 12/30/05, effective 2/22/06]

[Published 1/18/06]

[For replacement pages for IAC, see IAC Supplement 1/18/06.]

**ARC 4832B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVIII; No. 11, p. 859, on November 23, 2005, as **ARC 4681B**.

Item 1 adopts new rule 701—42.25(422,476B), which provides for a wind energy production tax credit for individual income tax.

Item 2 adopts new rule 701—42.26(422,476C), which provides for a renewable energy tax credit for individual income tax.

Item 3 adopts new rule 701—52.26(422,476B), which provides for a wind energy production tax credit for corporation income tax.

Item 4 adopts new rule 701—52.27(422,476C), which provides for a renewable energy tax credit for corporation income tax.

Item 5 adopts new rule 701—58.15(422,476B), which provides for a wind energy production tax credit for franchise tax.

Item 6 adopts new rule 701—58.16(422,476C), which provides for a renewable energy tax credit for franchise tax.

These rules are identical to those published under Notice of Intended Action.

These rules will become effective February 22, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

REVENUE DEPARTMENT[701](cont'd)

These rules are intended to implement Iowa Code Supplement chapters 422, 476B, and 476C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [42.25, 42.26, 52.26, 52.27, 58.15, 58.16] is being omitted. These rules are identical to those published under Notice as **ARC 4681B**, IAB 11/23/05.

[Filed 12/30/05, effective 2/22/06]  
[Published 1/18/06]

[For replacement pages for IAC, see IAC Supplement 1/18/06.]

## ARC 4829B

### REVENUE DEPARTMENT[701]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 421.14, 425.8, 425.37, 426A.7, 437A.25, and 441.21(2), the Department of Revenue hereby adopts amendments to Chapter 70, "Replacement Tax and Statewide Property Tax," Chapter 71, "Assessment Practices and Equalization," Chapter 72, "Examination and Certification of Assessors and Deputy Assessors," Chapter 73, "Property Tax Credit and Rent Reimbursement," Chapter 74, "Mobile, Modular, and Manufactured Home Tax," Chapter 75, "Property Tax Administration," Chapter 78, "Property Tax Exemptions," Chapter 79, "Real Estate Transfer Tax and Declarations of Value," Chapter 80, "Property Tax Credits and Exemptions," Chapter 120, "Organization and Operation," Chapter 122, "Administration," Chapter 123, "Certification," and Chapter 124, "Courses," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXVIII; No. 10, p. 716, on November 9, 2005, as **ARC 4613B**.

These amendments are intended to implement 2005 Iowa Acts, Senate Files 265, 390 and 413, and House Files 374, 868 and 882. Some rules were amended for clarification and explanatory purposes.

Since publication of the Notice, the references to 2005 Iowa Acts have been converted to Iowa Code Supplement sections.

These amendments will become effective February 22, 2006, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code Supplement chapters 421, 425, 426A, 427, 435, 437A, 441, 445 and 476B.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 70 to 75, 78 to 80, 120, 122 to 124] is being omitted. With the exception of the

changes noted above, these amendments are identical to those published under Notice as **ARC 4613B**, IAB 11/9/05.

[Filed 12/30/05, effective 2/22/06]  
[Published 1/18/06]

[For replacement pages for IAC, see IAC Supplement 1/18/06.]

## ARC 4835B

### SECRETARY OF STATE[721]

#### Adopted and Filed

Pursuant to the authority of Iowa Code sections 9.7, 9A.3(4), 9D.2, and 9E.17; chapters 17A, 490, and 499; section 504A.91; and 2002 Iowa Acts, chapter 1121, section 6, the Secretary of State hereby adopts amendments to Chapter 1, "Description of Organization," Chapter 3, "Administrative Hearings," Chapter 4, "Forms," Chapter 7, "Agency Procedure for Rule Making," Chapter 8, "Petitions for Rule Making," Chapter 9, "Declaratory Orders," Chapter 40, "Corporations," and Chapter 42, "Athlete Agent Registration," and rescinds Chapter 44, "Registration of Waste Tire Haulers," and Chapter 45, "Civil Penalties for Waste Tire Haulers," Iowa Administrative Code.

The amendments revise rules identifying a change in location of certain offices of the Secretary of State from the Hoover State Office Building to the Lucas State Office Building and repeal two chapters of rules consistent with action of the 2002 Session of the General Assembly regarding regulation of waste tire haulers as those duties were assigned to the Department of Natural Resources effective July 1, 2002.

Notice of Intended Action was published in the Iowa Administrative Bulletin on November 23, 2005, as **ARC 4656B**. No public hearing was requested or held. No public comments were received.

These amendments are intended to implement Iowa Code chapters 9, 9A, 9D, 9E, 17A, 490, and 499.

These amendments will become effective February 22, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [1.2(3), 1.6(4), 3.4, 4.1, 4.1(2), 7.5(1), 7.6(2), 8.1, 8.3, 9.1, 9.3(3), 9.5, 9.6(2), 40.1, 42.2 to 42.4; rescind Chs 44 and 45] is being omitted. These amendments are identical to those published under Notice as **ARC 4656B**, IAB 11/23/05.

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